

CENTER for JUDICIAL ACCOUNTABILITY, INC.\*

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Elena Ruth Sassower, Director

BY HAND

May 13, 2013

USATTY OFF 4/10/02 11M

Loretta Lynch, U.S. Attorney for the Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, New York 11201

RE: United States of America v. John Sampson – Deal-making that Advances the Corruption-Fighting Agenda of U.S. Attorney Bharara and Repudiates the Appearance and Reality that Black & Hispanic Legislators are being Invidiously Investigated & Prosecuted

Dear U.S. Attorney Lynch:

Last week – following your announcement that you are prosecuting State Senator John Sampson for corruption and a New York Times article identifying that you had offered him a plea deal – I phoned your office to provide information useful to both you and Senator Sampson. I was directed to Judy Philips, Chief of your Criminal Intake Unit. Although I left messages on her voicemail on May 7<sup>th</sup> and May 10<sup>th</sup>, stating that I had useful information, I received no return call from her or from the other member of your staff on whose voice mail I left a further message on May 10<sup>th</sup>.

According to the Times' May 6<sup>th</sup> article, "Senator in Corruption Case Spoke of Silencing Witnesses, Prosecutors Say", describing that day's arraignment of Mr. Sampson in Brooklyn federal district court:

"During the hearing, a prosecutor said he had offered Mr. Sampson a plea agreement, which he has until the end of the month to accept. Under the agreement, Mr. Sampson would plead guilty to embezzlement and one other charge and accept a sentence of 37 to 46 months. He faces up to 20 years in prison under the most serious charge if he is found guilty at trial.

Mr. Sampson declined to comment after the hearing. His lawyer, Zachary W. Carter, accused federal prosecutors of wrongfully portraying the case as one of public

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\* **Center for Judicial Accountability, Inc. (CJA)** is a national, non-partisan, non-profit citizens' organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

EX B-3

corruption, saying the crimes charged had nothing to do with Mr. Sampson's position as a legislator..."

I was quite surprised by your plea offer, as it would seem to have no purpose other than to spare your office the burden of a trial. Surely you are familiar with U.S. Attorney Bharara's powerfully articulated position at two press conferences last month, followed by his April 22<sup>nd</sup> speech entitled "*Public Corruption in New York: More than a Prosecutor's Problem*".<sup>1</sup> According to U.S. Attorney Bharara, public corruption in New York is "rampant" and "pervasive" and

"law enforcement will use every aggressive and creative tool at our disposal – wiretaps and confidential informants and undercover agents and stings. And yes, seeking the cooperation of elected officials who can help us investigate and prosecute their own corrupt colleagues."<sup>2</sup>

Are you unaware that Mr. Sampson – having held leadership positions in the New York State Legislature – is able to furnish a wealth of information about "corrupt colleagues" in the Legislature and elsewhere in government?

If you are offering Mr. Sampson 37 to 46 months in exchange for nothing more than his guilty plea, Mr. Sampson should negotiate a BETTER deal for himself based on the valuable information he can provide about the public corruption summarized by the April 15<sup>th</sup> complaint we filed with U.S. Attorney Bharara. Indeed, it would be a great public service to the People of this State for him to do so. That is why, shortly after leaving my first message for Ms. Philips, I left a voice mail for Mr. Sampson's attorney, Zachary Carter, and e-mailed him a copy of the May 7<sup>th</sup> letter that I had already e-mailed to all Senators and Assembly Members entitled, "*Doing Your Part to End Public Corruption*". In pertinent part, it stated:

"It is our view that Senators Malcolm Smith and John Sampson would be performing a great public service if they would 'cut a deal' with the U.S. Attorneys for lenience in exchange for the wealth of information they can doubtlessly provide germane to our April 15<sup>th</sup> complaint. We so-stated this to Senator Smith in an April 19, 2013 letter to him, with a proposal that he also build a Rules Reform Conference dedicated to securing debate and a simple Senate vote on the non-partisan, good-government rules reforms proposed by the defunct 2009 Temporary [Senate] Committee on Rules and Administration Reform, created under his leadership. We hereby state the same now to Senator Sampson, who – by at least holding hearings, in 2009, on 'merit

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<sup>1</sup> The videos of the press conferences, U.S. Attorney Bharara's written remarks delivered at those press conferences, as well as his April 22<sup>nd</sup> speech are posted on CJA's website, [www.judgewatch.org](http://www.judgewatch.org), accessible via the top panel "Latest News", containing a hyperlink to "Holding Government Accountable for its Grand Larceny of the Public Fisc".

<sup>2</sup> See U.S. Attorney Bharara's April 4, 2013 prepared remarks announcing the prosecution of Assemblyman Eric Stevenson (at p. 5) and his April 22<sup>nd</sup> speech (at p. 8).

selection’ to the New York Court of Appeals and on the State Commission on Judicial Conduct and court-controlled attorney disciplinary system – achieved more as chairman of the Senate Judiciary Committee than any of his three Republican predecessors and his Republican successor. Indeed, Senator Sampson deserves credit for having voted against this year’s Judiciary appropriations bill – one of only five right-minded, law-abiding Senators to do so.” (at pp. 1-2, underlining in the original).

You are an indicated recipient of our May 7<sup>th</sup> letter – and a copy is enclosed, together with a copy of our referred-to April 19<sup>th</sup> letter to Senator Smith and our April 15<sup>th</sup> complaint to U.S. Attorney Bharara with its accompanying verified complaint in our People’s lawsuit against New York’s highest constitutional officers and three government branches sued for corruption arising from their fraud upon the People of New York in connection with the judicial pay raises. Indeed, Senator Sampson is not only a defendant in *Center for Judicial Accountability, Inc., et al v. Cuomo, et al.* – being a member of the defendant New York State Senate – but his pivotal role as Senate Judiciary Committee Chairman, Senate Democratic Conference Leader, and Senate Minority Leader in the Senate’s tortious and unconstitutional conduct, covering up systemic judicial corruption and enabling the fraudulent, statutorily-violative judicial pay raises recommended by the 2011 Special Commission on Judicial Compensation, is particularized by the verified complaint: ¶¶47-55; 62; 67; 74-75; 81; 83; 86; 120-121.

Can there be any doubt that no one is better able than Senator Sampson to give testimony about the 2009 Senate Judiciary Committee hearings on the Commission on Judicial Conduct and court-controlled attorney disciplinary system – at which two dozen witnesses testified before him about the corruption of judges and lawyers, unrestrained by any investigative and enforcing body<sup>3</sup>:

(1) as to the background to his decision, as chairman of the 23-member Senate Judiciary Committee, to hold the hearings;

(2) as to why, for most of the June 8, 2009 hearing in Albany, he sat alone, taking testimony, and why, for a good portion of the September 24, 2009 hearing in Manhattan, he sat alone, taking testimony;

(3) as to why not a single white Democratic Senator attended the hearings; with the Republican presence being limited to a single white Republican Senator only briefly attending each of the two hearings;

(4) as to his cancellation of the third hearing, scheduled for December 16, 2009 in Manhattan and never rescheduled;

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<sup>3</sup> The Senate videos and stenographic transcripts of Senator Sampson’s June 8, 2009 and September 24, 2009 Senate Judiciary Committee hearings on the Commission on Judicial Conduct and court-controlled attorney disciplinary system are posted on CJA’s website, accessible *via* the top panel “Latest News”.

- (5) as to his failure to schedule hearings for western New York;
- (6) as to the whereabouts of the mountain of documentary evidence furnished by witnesses and would-be witnesses in support of their testimony;
- (7) as to why, as Senate Judiciary Committee chairman and head of the Senate Democratic conference, he failed to establish a task force to investigate and report on the testimony and documentary evidence;
- (8) as to what investigation, if any, the Senate Judiciary Committee made of the testimony and documentary evidence -- and why it issued no findings of fact and conclusions of law, nor committee report;
- (9) as to why the Committee's 2009 annual report omitted that the June 8, 2009 and September 24, 2009 hearings had even been held -- as likewise that the Committee, under Chairman Sampson, had also held hearings in 2009 on "merit selection" to the New York Court of Appeals, as to which the Committee had also not issued any findings of fact, conclusions of law, or committee report.

Nor is anyone better able than Senator Sampson to testify as to what he did with the copy of CJA's October 27, 2011 Opposition Report that I publicly handed him on December 8, 2011<sup>4</sup>; or about the conversations he had with other public officers and staff about it; or as to the reason, on March 26, 2013, he voted against the Judiciary appropriations bill (S.2601-A) with its unidentified and unitemized second phase of the judicial pay raises.

Senator Sampson's testimony on these subjects would expose the corruption of the political establishment, including the all-white named defendants in *CJA v. Cuomo* -- Governor Cuomo,

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The circumstances are recited in Exhibit Q to the verified complaint in *CJA v. Cuomo* as follows:

"On [December 8, 2011], Senator Sampson was a panelist at a program at the New York City Bar Association entitled 'Albany Reform: The Road Ahead', exploring the 2011 Public Integrity Reform Act and other reforms to make New York State government 'more functional, transparent, and effective' and 'fully restore New Yorkers' confidence in their government'.

In the question segment of the program, I asked Senator Sampson, formerly chairman of the Senate Judiciary Committee, under whose leadership, in 2009, the aborted hearings were held on the Commission on Judicial Conduct and court-controlled attorney disciplinary system -- as to which no investigation, findings, or committee report was ever made -- about how to make systemic corruption of New York's judiciary, infesting appellate and supervisory levels and encompassing the Commission on Judicial Conduct, an explicit issue for 'Albany Reform'. In that context, I publicly handed him our Opposition Report, two-volume Exhibit Compendium, and the Executive Summary, walking from the audience microphone to the dais to do so." (CJA's March 2, 2012 letter to New York's highest constitutional officers, at fn. 2, underlining in the original).

Temporary Senate President Skelos, Assembly Speaker Silver, Chief Judge Lippman, Attorney General Schneiderman, and Comptroller DiNapoli. Consequently, your failure to require such testimony from Senator Sampson – upon this notice to you of its significance – would be nothing less than a willful obstruction of U.S. Attorney Bharara’s corruption-fighting agenda, which, should he allow, could not be explained as other than collusion by the U.S. Attorneys to protect this state’s white political establishment to which you each owe your positions.

A copy of this letter is being hand-delivered to U.S. Attorney Bharara so that he can take appropriate action in furtherance of his corruption-fighting agenda and to prevent the appearance and actuality that he and you are “protecting” the political establishment, while invidiously and selectively investigating and prosecuting Black and Hispanic legislators.

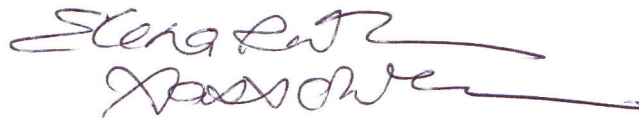
Finally, please deem the two-fold relief sought in the “RE” clause of our April 15<sup>th</sup> corruption complaint to U.S. Attorney Bharara to also be relief requested of you:

“RE: Achieving ‘the Dream of Honest Government’:

(1) Criminal Complaint against NYS’ Highest Constitutional Officers for Grand Larceny of the Public Fisc and Additional Corrupt Acts – as, likewise, against NYS’ Other Constitutional and Public Officers and their Taxpayer-paid Counsel and Professional Staffs;

(2) Intervention in Center for Judicial Accountability, et al. v. Andrew Cuomo, et al. (NY Co. #401988/2012) & Transfer to the U.S. District Court, with Amendment of the Verified Complaint to Embody Additional Causes of Action and Supervening Facts, Including as to the Violations of Constitutional, Statutory, and Rule Provisions Underlying Passage of the NYS Budget for Fiscal Year 2013-2014 and Judiciary/Legislative Appropriations Bill S.2601-A/A.3001-A.”

Thank you.



Enclosures: (1) CJA’s May 7, 2013 letter to All Senators & Assembly Members  
(2) CJA’s April 19, 2013 letter to Senator Malcolm Smith  
(3) CJA’s April 15, 2013 corruption complaint to U.S. Attorney Preet Bharara with its accompanying verified complaint & exhibits in *CJA v. Cuomo*

cc: U.S. Attorney Preet Bharara  
Senator John Sampson  
Zachary Carter, Esq.  
Senator Malcolm Smith  
All Senators & Assembly Members  
The Public & Press