

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

Tel. (914)421-1200

E-Mail: mail@judgewatch.org
Website: www.judgewatch.org

December 2, 2016

TO: Senate FOIL Appeals Officer/Senate Republican Conference Counsel Beth Garvey

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

RE: APPEAL: FOIL/RECORDS REQUEST: The Legislature's compliance with Legislative Law §90: "Internal control responsibilities"

Pursuant to the Senate's "Rules and Regulations Relating to Public Inspection and Copying of Legislative Records", §9 "Appeals", I here appeal Secretary of the Senate Francis Patience's November 30, 2016 disposition of my above-entitled records request dated November 22, 2016. As required, copies of both documents are attached.

The sole record that Secretary of the Senate Patience has furnished in response to my request is Senate Rule XIV, "Guidelines for a System of Internal Controls", which – as reflected by my request – I already have. He does not state why he is furnishing me with Senate Rule XIV – let alone that it is the entirety of "rule guidelines for a system of internal control" established by the Senate pursuant to Legislative Law §90(1)(a).

He then states that the "additional/remainder of records requested, if the records even exist, are not subject to disclosure pursuant to Senate Rules." Tellingly, Secretary of the Senate Patience does not specify the Senate rule that exempts the records I have requested from disclosure – and I do not believe they are exempt. These are:

"records establishing:

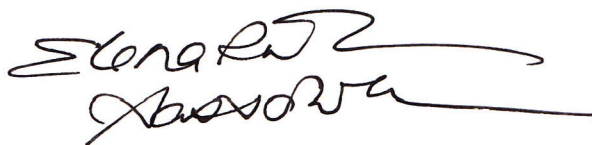
- (1) the current 'system of internal control and...program of internal control review' that the Senate and Assembly established pursuant to Legislative Law §90(1)(b);
- (2) the current schedule listing 'all components' of the Senate and Assembly" – including, if identified therein, the 'components for which joint internal controls and internal control review' have been – or were to be – established pursuant to Legislative Law §90(2)."

Indeed, §2 of the Senate's "Rules and Regulations Relating to Public Inspection and Copying of Legislative Records", entitled "Records Available", expressly identifies, as available:

"external audits conducted pursuant to Section 92 of the Legislative Law and schedules issued pursuant to Subdivision 2 of Section 90 of such law." (underlining added).

Please advise, e-mailing your appeal decision to me at elena@judgewatch.org

Thank you.

A handwritten signature in black ink, appearing to read "Elena R. J. Russo". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Enclosures

cc: Secretary of the Senate Francis Patience
Assembly Records Access Officer Robin Marilla
New York State Committee on Open Government Executive Director Robert Freeman
Douglas Zimmerman, Chief Operating Officer/EFPR Group, LLP

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

Tel. (914)421-1200

E-Mail: cja@judgewatch.org
Website: www.judgewatch.org

November 22, 2016

TO: New York State Senate
Francis W. Patience, Secretary of the Senate

New York State Assembly
Robin Marilla, Assembly Records Access Officer

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

RE: RECORDS REQUEST: The Legislature's compliance with Legislative Law §90:
"Internal control responsibilities"

Legislative Law Article VI (§§89-92) is entitled "Internal Control Responsibilities of the State Legislature". Its §90, entitled "Internal control responsibilities", reads as follows:

- “1. The senate and the assembly shall each:
 - a. establish and maintain by rule guidelines for a system of internal control; and
 - b. establish and maintain a system of internal control and a program of internal control review for their respective house.

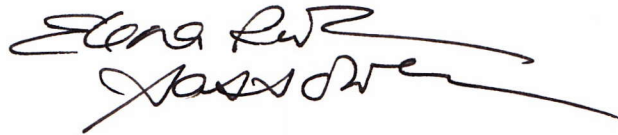
2. In order to identify all the components of the legislature and their responsibilities for the purposes of implementing the provisions of this article, the temporary president of the senate and the speaker of the assembly shall jointly issue, and at their discretion, periodically revise a schedule which lists all components of each of their respective houses of the legislature. The temporary president of the senate and the speaker of the assembly may identify in a schedule components for which joint internal controls and internal control reviews will be established and maintained.”

Presumably, the current “guidelines for a system of internal control” that Legislative Law §90(1)(a) required the Senate and Assembly to establish “by rule” are Senate Rule XIV and Assembly Rule VII, each entitled “Guidelines for a System of Internal Controls”. If not, pursuant to Senate Rule XV (“Freedom of Information”) and Assembly VIII (“Public Access to Information”), please furnish the promulgated guidelines as, likewise records establishing:

- (1) the current “system of internal control and...program of internal control review” that the Senate and Assembly established pursuant to Legislative Law §90(1)(b);
- (2) the current schedule listing “all components” of the Senate and Assembly” – including, if identified therein, the “components for which joint internal controls and internal control review” have been – or were to be – established pursuant to Legislative Law §90(2).

As all the foregoing is integral to the independent audit that EFPR Group, LLP is currently undertaking pursuant to Legislative Law §92, I am sending this records request to its Chief Operating Officer, Douglas Zimmerman, so that EFPR can expeditiously obtain such records for evaluation, if it has not already done so.

Thank you.

A handwritten signature in black ink, appearing to read "Elena Ruz" with a stylized flourish extending to the right.

cc: Douglas Zimmerman, Chief Operating Officer/EFPR Group, LLP

Center for Judicial Accountability, Inc. (CJA)

From: Senate Foil <foil@nysenate.gov>
Sent: Wednesday, November 30, 2016 11:59 AM
To: Center for Judicial Accountability, Inc. (CJA)
Subject: Re: RECORDS REQUEST: The Legislature's compliance with Legislative Law Sec. 90
Attachments: Rules and Regulations March 2013.pdf; Scanned from a Xerox Multifunction Device.pdf

November 30, 2016

Ms. Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
Post Office Box 8101
White Plains, NY 10602
cja@judgewatch.org

Dear Ms. Sassower:

This is to acknowledge receipt of your email dated November 22, 2016 pursuant to the Freedom of Information Law.

You are requesting information / records relating to the Legislature's compliance with Legislative Law §90: "Internal control responsibilities".

Please find the attached pdf of Senate Rule XIV for your review.

Also, please be advised additional / remainder of records requested, if the records even exist, are not subject to disclosure pursuant to Senate Rules.

I have attached a copy of the Senate's Rules and Regulations Relating to the Public Inspection and Copying of Legislative Records for your information.

Sincerely,

Francis W. Patience
Secretary of the Senate

(See attached file: Rules and Regulations March 2013.pdf)

From: "Center for Judicial Accountability, Inc. \CJA\
<elena@judgewatch.org>

To: <foil@nysenate.gov>, "Robin Marilla"
<marillar@assembly.state.ny.us>
Cc: <DZimmerman@EFPRgroup.com>
Date: 11/22/2016 03:06 PM
Subject: RECORDS REQUEST: The Legislature's compliance with Legislative
Law Sec. 90

TO: Secretary of the Senate Francis Patience
Assembly Records Access Officer Robin Marilla

Attached is the Center for Judicial Accountability's above-entitled records request of today's date.

Thank you.

Elena Sassower, Director

Center for Judicial Accountability, Inc. (CJA)

914-421-1200

www.judgewatch.org

cc: Douglas Zimmerman, Chief Operating Officer/EFPR Group, LLP

RULE XIII ADJOURNMENT

Section 1. The Senate shall not adjourn for more than two days without the consent of the Assembly.

RULE XIV GUIDELINES FOR A SYSTEM OF INTERNAL CONTROLS

Section 1. Pursuant to Article 6 of the Legislative Law as enacted by the New York state governmental accountability, audit and internal control act of 1987, the following guidelines for a System of Internal Control are hereby established:

- a. all financial transactions shall be executed in accordance with the general or specific authorization of the Temporary President or his or her designated representative;
 - b. all financial transactions shall be recorded in conformity with generally accepted accounting principles or other applicable criteria and to maintain accountability for assets;
 - c. access to assets shall be permitted only in accordance with the authorization of the Temporary President or his or her designated representative;
 - d. the recorded accountability for assets shall be compared with the existing assets at reasonable intervals and appropriate action shall be taken with respect to any differences; and
 - e. the system of internal controls shall provide reasonable assurance that the foregoing are accomplished.
- §2. Expenditure reporting. The Temporary President shall establish a system of expenditure reporting whereby expenditures of the Senate shall be reported by such categories as he or she shall determine. Reports of expenditures by such system shall be published in a form to be prescribed by the Temporary President.