

CENTER for JUDICIAL ACCOUNTABILITY, INC. (CJA)

Post Office Box 8101
White Plains, New York 10602

Tel. (914)421-1200

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

Elena Ruth Sassower, Director

July 9, 2021 Written Statement in Support of Testimony before the New York State Senate Committee on Ethics & Internal Governance at its July 12, 2021 Public Hearing on “New York State’s System of Ethics Oversight & Enforcement”

My name is Elena Sassower and I am director and co-founder of the non-partisan, non-profit citizens’ organization, Center for Judicial Accountability. Over and again, throughout the more than 30 years since our founding in 1989, we have documentarily PROVEN that “New York State’s system of ethics oversight and enforcement” is sham & completely corrupted – and have furnished the EVIDENCE, over and again, for the Legislature’s verification and action.

In [announcing this hearing](#) with less than four days notice and [requiring registration and a written statement within 18 hours of the posting](#), the Senate Committee on Ethics and Internal Governance has not identified what it deems to be the entities comprising “New York State’s system of ethics oversight and enforcement”. These entities of course include this Committee and the Assembly Committee on Ethics and Guidance, each of which have deliberately let the years pass without any oversight over the other ethics entities within the “system”. These include:

- (1) the [Joint Commission on Public Ethics](#), established by [Executive Law §94](#), with ethics oversight over the constitutional officers of New York's executive and legislative branches – *to wit*, the governor, the lieutenant governor, the attorney general, the comptroller, the 63 members of the state Senate, and 150 member of the state Assembly;
- (2) the [Legislative Ethics Commission](#), established by [Legislative Law §80](#), sharing ethics oversight over state legislators with the Joint Commission on Public Ethics;
- (3) the [New York State Commission on Judicial Conduct](#), established by [Article VI, §22 of the New York State Constitution](#) and [Judiciary Law Article 2-A](#) with ethics oversight over the constitutional officers of New York's legislative branch -- these being its 2,000-plus state judges;
- (4) [New York's eight attorney grievance committees, established by the four Appellate Divisions of New York’s Supreme Court](#), pursuant to [Judiciary Law §90](#) and their own [jointly promulgated rules](#), with ethics oversight over New York’s lawyers – including New York’s 62 district attorneys, who are also constitutional

officers over whom, like the attorney general, it has ethics jurisdiction;

(5) the [New York State Inspector General](#), established by [Executive Law Article IV-A](#), with conflict-of-interest jurisdiction over all executive branch agencies, departments, divisions, officers, boards and commissions, and over most public authorities and public benefit corporations; and

(6) the [Office of Court Administration Inspector General](#), established by [a 1982 order of the Chief Administrative Judge](#), with conflict-of-interest jurisdiction over non judicial personnel of the Office of Court Administration.

What these six entities have in common is that complaints filed with them are deemed “confidential”.

In 1989, then State Comptroller Edward Regan sought to investigate whether the Commission on Judicial Conduct was doing the ethics oversight and enforcement job over the Judiciary for which it was established and for which taxpayers pay it. He recognized that no assessment was possible without examining how the Commission was handling complaints. However, the Commission would not give him access to complaints, citing statutory confidentiality. As a result, Comptroller Regan wrote a report entitled [Not Accountable to the Public: Resolving Charges Against Judges is Cloaked in Secrecy](#), with an accompanying press release just as blunt entitled “[Commission on Judicial Conduct Needs Oversight](#)”. That was 32 years ago – and the Legislature never took the simple action that Comptroller Regan said was the *sine qua non* for any assessment of the Commission on Judicial Conduct’s functioning – a statutory amendment to provide for independent examination/auditing of its records of complaints.

That simple action is necessary now – and not only with respect to the Commission on Judicial Conduct, but, comparably, with respect to the Appellate Division’s attorney grievance committees, the Joint Commission on Public Ethics, and the Legislative Ethics Commission, whose statutes, likewise, must be amended to specifically enable independent examination and auditing of their records of complaints. Likewise, statutory provision must be made for such independent examination/auditing of the records of complaints filed with the State Inspector General and the Office of Court Administration’s Inspector General.

Achieving a functioning “system of ethics oversight and enforcement” has always been EASY to accomplish. What it requires is that those charged with oversight responsibilities, such as the Legislature, by its pertinent committees¹, confront – with findings of fact and conclusions of law –

¹ Among these additional legislative committees: (1) the Senate Committee on Investigations and Government Operations; (2) the Assembly Committee on Oversight, Analysis, and Investigation; (3) the Assembly Committee on Governmental Operations; (4) the Senate Judiciary Committee; (5) the Assembly Judiciary Committee; (6) the Senate Committee on Corporations, Authorities, and Commissions; (7) the Assembly Committee on Corporations, Authorities, and Commissions; (8) the joint Senate-Assembly Legislative Commission on Government Administration; and (9) the joint Senate-Assembly Legislative Commission on Administrative Regulations Review.

the EVIDENCE of what has been going on. The records of complaints filed with these ethics entities is the BEST, MOST RESOUNDING EVIDENCE, establishing EXACTLY what the problem is: corrupt and criminal conduct by these entities, outrightly violating their statutory and administrative order mandates. Indeed, it reveals that the dumping of facially-meritorious, documented ethics complaints by these entities – *without* investigation – is not so much a “structural” issue, but the consequence of unfit personnel whose flagrant lack of ethics – beginning with their utter disregard for conflict of interest rules and the non-discretionary duties of their offices – is the cause of the problem.

As to the solution to this problem, it could not be simpler: culpable staff who essentially run these ethics entities *via* implementing rules and delegations of power and dismiss or “sit on” facially-meritorious, documented complaints *without* presentment to commissioners and committee members, must be fired for their corruption and criminally prosecuted. Likewise, commissioners, committee members, and inspectors general must be removed for corruption or for their complicity therein – and prosecuted.

So that the Committee can determine the foregoing for itself – and belatedly discharge its long overdue obligations to the People of the State of New York with respect thereto – I am furnishing a sample of complaints that CJA has filed since 2013: four ethics complaints filed with the Joint Commission on Public Ethics, two ethics complaints with the Legislative Ethics Commission, three ethics complaints with the Commission on Judicial Conduct, and three ethics complaints with the attorney grievance committees – all twelve complaints seeking “ethics oversight and enforcement” directly over you and/or your fellow constitutional offices for your wilful and deliberate violations of conflict of interest rules involving the statutorily-violative, fraudulent, and unconstitutional pay raises of which you have all become beneficiaries. Additionally, and related, I am furnishing a 2013 complaint filed with the New York State Inspector General and, additionally, a 2013 complaint filed with the Unified Court System’s Inspector General

These 14 complaints are posted – together with such dispositions as each entity made – on CJA’s EVIDENTIARY webpage for this written statement in support of my testimony, accessible from CJA’s menu page for the Legislature’s 2021 Legislative Session. The prominent center link on our homepage, www.judgewatch.org, from which that menu page can be accessed, is entitled “Comparing NY’s Legislature Before and After Its Fraudulent Pay Raise”. The direct link for the EVIDENTIARY webpage is here: <http://www.judgewatch.org/web-pages/searching-nys/2021-legislative-session/july-12-2021-ethics-oversight-enforcement.htm>.

Is there a disposition of any of the 14 complaints that this Committee can remotely justify?