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By E-Mail

DATE: December 17, 2014

TO: United States Senate Judiciary Committee
ATT: Senate Democratic Majority/Senator Patrick Leahy, Chair
ATT: Senate Republican Minority/Senator Chuck Grassley, Ranking Member

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

RE: Citizen Opposition to Senate Confirmation of U.S. Attorney Loretta Lynch as U.S. Attorney General: Requests to Testify, for Documents, & for Posting

This is to reiterate my notice to the Senate Judiciary Committee – in repeated phone calls to both its Democratic majority and its Republican minority, beginning November 10, 2014 – of the Center for Judicial Accountability’s citizen opposition to Senate confirmation of U.S. Attorney Loretta Lynch as U.S. Attorney General – and my request, as the Center for Judicial Accountability’s Director, to testify in opposition at the Senate Judiciary Committee’s public hearing on her confirmation.

As I have repeatedly stated, CJA’s citizen opposition is based on U.S. Attorney Lynch’s corruption in office as U.S. Attorney for the Eastern District of New York, covering up systemic governmental corruption in New York State, involving its highest public officers in all three government branches and key state agencies and entities responsible for their oversight. To this, I can attest from my direct, first-hand experience with U.S. Attorney Lynch, both in her first term, 1999-2001, and her present second term. Indeed, were it not for the corruption of the Justice Department’s Office of Professional Responsibility, to which, in 2001, I filed a fully-documented complaint of professional misconduct against U.S. Attorney Lynch, she would never have had a second term – nor been nominated by President Obama to be U.S. Attorney General.

Did U.S. Attorney Lynch disclose this March 23, 2001 misconduct complaint when she obtained, in 2010, President Obama’s nomination and Senate confirmation to a second term as U.S. Attorney? Did she disclose it this year in obtaining the President’s nomination to be Attorney General – and has she disclosed it now as she faces Senate confirmation? I have notified the Senate Judiciary Committee of these questions – and asked, repeatedly, for a blank copy of the “confidential” portion

* **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.

of the questionnaire that the Senate Judiciary Committee requires nominees to complete so that I may confirm that it includes the question:

“Have you ever been the subject of a complaint to any court, administrative agency, bar association, disciplinary committee, or other professional group for breach of ethics, unprofessional conduct or violation of any rule of practice? If so, please provide full details.”

The Senate Judiciary Committee has, for weeks, failed to furnish me with the blank “confidential” portion of its questionnaire, let alone confirm that it contains the question that it most certainly does.

As for the “public” portion of U.S. Attorney Lynch’s completed questionnaire, which I requested from my first phone calls to the Senate Judiciary Committee on November 10, 2014, specifying, in particular, my interest in her answer to its question about conflicts of interest, I have already notified the Committee’s Democratic majority and Republican minority as to the inadequacy of her answers as they appear on the “public” portion of her December 1, 2014 completed questionnaire, posted on the Senate Judiciary Committee’s webpage for her nomination, <http://www.judiciary.senate.gov/nominations/executive/pn2136-113>. The question and her answers are as follows:

“22. Potential Conflicts of Interest:

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice’s designated ethics official to identify potential conflicts of interest. Any potential conflicts will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department’s designated agency ethics official.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

In the event of a potential conflict of interest, I will consult with ethics officials in the Department of Justice.” (at p. 54).

In other words, U.S. Attorney Lynch has not identified ANY conflicts of interests – and refers to, but does not elucidate upon, “the terms of an ethics agreement” she has “entered into with the Department’s designated agency ethics official” – a copy of which she does not supply. As to stating that she “will consult with ethics officials in the Department of Justice”, this is, as she knows, worthless: a *carte blanche* for her to disregard conflict of interest rules and procedures and betray the duties of her office, without the slightest repercussion – as proven by the Office of Professional Responsibility’s insupportable dismissal of my fully-documented March 23, 2001 misconduct complaint against her.

So that I may properly prepare my evidence-based opposition testimony for the Senate Judiciary Committee’s confirmation hearing, please furnish a copy of the “ethics agreement”, once you obtain same. Additionally, please furnish the “public” portions of Ms. Lynch’s completed Senate Judiciary Committee questionnaires for her 2010 and 1999 confirmations as U.S. Attorney for the Eastern District of New York, as, likewise, the transcripts of her two Senate Judiciary Committee confirmation hearings – all of which I believe are compiled in bound volumes, which the Committee’s document clerk can readily provide. If videos are available, particularly of Ms. Lynch’s 2010 confirmation hearing, please advise as to how I may view them. Additionally, I would like to see the transcripts/videos of the meetings at which Ms. Lynch’s 2010 and 1999 nominations were voted out of committee, any committee reports thereon, as well as the Senate floor proceedings on her confirmations – and the Senate votes.

As I stated when I first telephoned on November 10, 2014 and repeatedly thereafter, I am available to be interviewed, under oath, by Senate counsel and investigators so that a proper assessment may be promptly made as to the seriousness of CJA’s citizen opposition. Meantime, you can discern for yourselves its dispositive nature from the fully-documented corruption complaints I filed with U.S. Attorney Lynch in 1999-2000 and in 2013, to which there was no investigative or appropriate response by her – and whose calamitous consequences to the People of the State of New York may be gleaned from the parade of witnesses who testified on June 8, 2009 and September 24, 2009 at hearings of the New York State Senate Judiciary Committee, held by its then chair, Senator John Sampson, and at the September 17, 2013 hearing of the Commission to Investigate Public Corruption, at which U.S. Attorney Lynch herself testified, heralding herself and being heralded by the Commission as a corruption fighter², along with U.S. Attorney Preet Bharara, similarly heralding

² U.S. Attorney Lynch’s “public” questionnaire (at p. 8) identifies that she is annexing a copy of her written testimony for that hearing, describing it as “Testimony before the Moreland Commission in my capacity as a Department official on issues concerning public corruption in New York State”. Her written testimony, which was essentially her oral testimony, reads in pertinent part:

“As the United States Attorney for the Eastern District of New York, I am honored to lead an office with a long tradition of fighting public corruption, an office that has brought many of the leading cases of our times....

Our current cases continue our rich tradition of protecting the public fisc and attempting to safeguard the public’s faith in the political system. That faith, however, cannot help but be shaken by the recent history of self-interest and double-dealing our office and others have uncovered....

Based on our experience, we have identified certain core principles that can act as effective

himself and so-heralded.

Both the corruption complaints and the videos of the hearings are posted on CJA's website, www.judgewatch.org, accessible *via* the prominent link: "CJA's Citizen Opposition to Senate Confirmation of U.S. Attorney Loretta Lynch as U.S. Attorney General".

Finally, inasmuch as the Senate Judiciary Committee's webpage for U.S. Attorney Lynch's nomination posts a December 3, 2014 letter of support signed by four former U.S. Attorneys for the Eastern District of New York, under the heading "Letters Received:", I request that this letter of citizen opposition be posted, as well.

Thank you.



cc: U.S. Attorney for the Eastern District of New York Loretta Lynch
December 3, 2014 letter signatories:

Former U.S. Attorney for the Eastern District of New York Andrew Maloney

Former U.S. Attorney for the Eastern District of New York Zachary Carter

Former U.S. Attorney for the Eastern District of New York Alan Vinegrad

Former U.S. Attorney for the Eastern District of New York Benton Campbell

U.S. Attorney for the Southern District of New York Preet Bharara

U.S. Attorney for the Northern District of New York Richard Hartunian

The Public & The Press

counter measures to a culture of corruption.

First – rules that hold politicians accountable for the fiscal decisions they make with taxpayer monies and require their acknowledgment of their responsibilities to certify appropriate use.

Second – truly transparent financial disclosure on the part of politicians and the beneficiaries of their largesse.

Third – a strong legal framework to allow the investigation and prosecution of corruption matters.

Fourth – a clear sentencing structure to enhance the deterrent effect.

Fifth – a commitment from all stakeholders – including but not limited to - law enforcement, the public, the media, and other public officials to report wrongdoing when they see it.

...

We are committed to vigorously investigating and prosecuting public corruption using all the investigative tools at our disposal. We have a long history of using undercover agents, cooperating witnesses, wiretaps, and other audio and video recordings. We undertake extensive review of documents that may shed light on corrupt activities. We will continue to use these tools to root out bad actors and bring their crimes to light.

But we are not alone in this fight, not can we prosecute our way out of this problem. It is not just for prosecutors and law enforcement agents to ferret out wrongdoing. We all have a role to play in promoting transparency and accountability on the part of our public officials.

The public must demand more accountability and honest services.

The media must remain vigilant in its scrutiny.

Public officials who see wrongdoing must not turn a blind eye and let corruption continue.

...My office remains committed to the important work of rooting out corrupt public officials....

Public officials who have engaged in corruption have not only broken the law, they have broken faith with the public. Their actions siphon off taxpayer dollars, deprive citizens of vital services and destroy public trust in our political system...."