



December 23, 2015

Via Email: elena@judgewatch.org

Elena Sassower
Center for Judicial Accountability, Inc.
P.O. Box 8101
White Plains, NY 10602

Dear Ms. Sassower:

This letter responds to your correspondence dated October 19, 2015, which pursuant to FOIL, requested:

all publicly-available records establishing that the JCOPE/LEC Review Commission is lawfully constituted, to wit, that it is constituted in conformity with Part DD of Budget Bill S.2006-B/A-3006-B, namely:

- (1) that Dale Volker was jointly designated by the Governor, Temporary Senate President, and Assembly Speaker to be Chair of the JCOPE/LEC Review Commission, including the date of such joint designation and the date and manner it was communicated to Mr. Volker, to the other members of the JCOPE/LEC Review Commission - and to the public;
- (2) that Christopher Pisciotta was jointly appointed to be one of the eight members of the JCOPE/LEC Review Commission and the date it was communicated to him, to the other members of the JCOPE/LEC Review Commission - and to the public;
- (3) that Seymour James, announced by the Governor's May 1, 2015 press release as jointly appointed to the JCOPE/LEC Review Commission, withdrew from the Commission - and the date thereof.

Additionally, this is to request all publicly-available records reflecting the circumstances of Seymour James' withdrawal from the JCOPE/LEC Review Commission, and, specifically, its relation to CJA's June 18, 2015 letter particularizing (at p.4) Mr. James' conflict of interest

We have performed a diligent search for the records you requested and have located one (1) disclosable page that responds to item (2) your FOIL request. The document being provided to you electronically, as you requested. It is attached to the email transmitting this letter.

Please be advised that records responsive to item (1) of your request are exempt from disclosure. Public Officers Law § 87(2)(a) precludes access to records that are “specifically exempted from disclosure by state or federal statute.” Accordingly, certain records that respond to item (1) your request are exempt from production pursuant to Civil Practice Law and Rules §§ 3101(c) and 4503(a) because they constitute attorney work product or confidential communications made between an attorney and his or her client.

Portion of the document are redacted because they are exempt from disclosure. A certain redacted portion consists of a cell phone number, which, if disclosed, “would constitute an unwarranted invasion of personal privacy.” Public Officers Law § 87(2)(b).

Certain other records responsive to your request are exempt from disclosure because they are inter-agency or intra-agency materials as defined in Public Officers Law § 87(2)(g). In other words, the exempt materials consist of communications between representatives of an “agency,” as that term is defined by Public Officers Law § 86(3). In contrast to “statistical or factual tabulations or data,” the exempt materials consist of recommendations, opinions, ideas, or advice that was exchanged as part of the deliberative process of government decision making.

Please be advised that the Executive Chamber does not possess records responsive to item (3) of your request or records “reflecting the circumstances of Seymour James’ withdrawal.”

Pursuant to Public Officers Law § 89(4)(a), you have thirty (30) days to take a written appeal of this determination. You may make an appeal by writing: FOIL Appeals Officer, Executive Chamber, State Capitol, Albany, New York, 12224.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mongthu Zago", is centered on the page. The signature is written in a cursive style.

Mongthu Zago
FOIL Counsel
Records Access Officer