

# CENTER for JUDICIAL ACCOUNTABILITY, INC.\*

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August 4, 2022

TO: **Independent Review Committee (IRC)**

SUNY-Buffalo Law School Dean Aviva Abramovsky  
CUNY-Queens College Law School Dean Sudha Setty  
Albany Law School Dean Alicia Ouellette  
Brooklyn Law School Dean Michael T. Cahill  
Columbia University Law School Dean Gillian Lester  
Cornell University Law School Dean Jens David Ohlin  
Fordham University Law School Dean Matthew Diller  
Hofstra University Law School Dean A. Gail Prudenti  
New York Law School Dean Anthony Crowell  
New York University Law School Dean Troy McKenzie  
Pace University Law School Dean Horace E. Anderson, Jr.  
St. John's University Law School Dean Michael A. Simons  
Syracuse University Law School Dean Craig M. Boise  
Touro College Law School Dean Elena B. Langan  
Yeshiva University-Cardozo Law School Dean Melanie Leslie

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

RE: **LETTER #2: Violation of Vetting Rules & Investigative Protocols by Selection Members & the Independent Review Committee – Born of Conflicts of Interest**

I have received no responses from you to [my July 27, 2022 e-mail](#) entitled “IMMEDIATE CLARIFICATION REQUIRED: Which, if any, proposed nominees to CELG have been formally nominated by selection members – as no selection members have announced formal nominations, following public comment”.

The e-mail's closing sentence reinforced the exigency of the situation, stating, in bold, with capitalization and underlining for additional emphasis:

**“Please immediately clarify the situation, so as to avoid your wasting time with proposed nominees who could NOT have been formally nominated, following public comment, unless investigation of EVIDENCE of their unfitness was TOTALLY DISPENSED WITH.”**

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\* **Center for Judicial Accountability, Inc.** (CJA) is a national, non-partisan, non-profit citizens' organization working to ensure that mechanisms are in place to prevent judges from “throwing” cases by decisions that are judicial perjuries, obliterating and falsifying fact and law – and that processes of judicial selection and discipline are effective and meaningful.

Your June 15, 2022 procedural rules for screening make very clear that you are not vetting the selection members' proposed nominees, but only their formal nominees – which the selection members cannot make until after they have meaningfully solicited public comment on their proposed nominees. And your rules imply that you will be monitoring that selection members are complying with public comment requirements and have appropriately eliminated, following investigation, proposed nominees who have been adversely commented upon:

“• Prior to any nomination being sent to the IRC, the Selection Members shall publish the name(s) of the individual(s) they intend to nominate at least seven business days before making such formal nomination. This information shall, at a minimum, be prominently posted on the Selection Member’s website, provide a link by which the public may offer comments on the proposed nominee, and also be transmitted via a media advisory. At the time of publication, such information also shall be e-mailed directly to the IRC Chair.

• When making a formal nomination, each Selection Member shall provide to the IRC: the name(s) and contact information of those nominated to serve on the Commission, the background investigation findings reported to them by the State Police and OGS for each nominee, any written comments received by mail or electronically in support of or in opposition to the nomination, along with any written materials a nominee may have submitted to the Selection Members, including but not limited to a complete resume or curriculum vitae, and any written statements regarding a nominee’s qualifications from a Selection Member.” (underlining added).

Aside from the fact that I do not believe that the selection members have solicited public comment in a fashion that is consistent with your rules – and so-alerted you by a [July 18, 2022 e-mail/FOIL request](#) – there is NO way that:

- following the conclusion of the [comment period for Michael Cardozo, ESQ., whose \(proposed\) nomination Governor Hochul announced at 8:21 p.m. on July 7<sup>th</sup>](#), she could have formally nominated Mr. Cardozo;
- following the conclusion of the [comment period for Gary Lavine, ESQ., whose \(proposed\) nomination Senate Minority Leader Ortt announced on July 12<sup>th</sup>](#), he could have formally nominated Mr. Lavine;
- following the conclusion of the [comment period for Nancy Groenwegen, ESQ., whose \(proposed\) nomination Comptroller DiNapoli announced on July 13<sup>th</sup>](#), he could have formally nominated Ms. Groenwegen;
- following the conclusion of the [comment period for Seymour James, ESQ., whose proposed nomination Senate Majority Leader Stewart-Cousins announced on July 21<sup>st</sup>](#), she could have formally nominated Mr. James.

The reason this is so is that I had electronically submitted to the above four selection members devastating comment, dispositive of the unfitness of their four proposed nominees.

- Here's [my comment as to Mr. Cardozo](#), electronically submitted to Governor Hochul on July 8<sup>th</sup>, and then again on [July 15<sup>th</sup>](#);
- Here's [my comment as to Mr. Lavine](#), electronically submitted to Senate Minority Leader Ortt on July 18<sup>th</sup>;
- Here's [my comment as to Ms. Groenwegen](#), electronically submitted to Comptroller DiNapoli on July 18<sup>th</sup>;
- Here's [my comment as to Mr. James](#), electronically submitted to Senate Majority Leader Stewart-Cousins on July 27<sup>th</sup>.

With respect to verification of these comments, no one, on behalf of any of the four selection members, contacted me for clarification, inquiry, or substantiation. Nor did I receive any contact from either the State Police or the New York State Office of General Services (OGS), including by OGS' assigned "attorney with relevant investigative expertise...serv[ing] as a confidential liaison to the nominating elected officials and the IRC", as might be expected based on your procedural rules.

Did the selection members transmit my above written comments to the Independent Review Committee in connection with any unannounced formal nominations of these four proposed nominees? Presumably such transmittals, if made, would have been received by Chair Crowell or his New York Law School staffer Ariel Dvorkin. Were they disseminated to you? And if they were, why have I not been contacted by any of you – particularly with regard to my comment concerning Mr. Cardozo, which – unlike the other comments – was not accompanied by an e-mail furnishing links to the substantiating proof, which I had also not particularized as to him.

My comment to Governor Hochul regarding Mr. Cardozo, sent at 5:37 a.m. on July 8<sup>th</sup>, *via* her website portal, which limited comment to 250 words, was as follows:

"Mr. Cardozo has, for decades, colluded in the corruption of state government, involving both judicial selection & discipline, the NYS Commission on Judicial Conduct, the Judiciary's control over attorney discipline, the corrupting of any cognizable judicial process by judges, in collusion with the Attorney General, to defeat meritorious lawsuit challenges, has aided, abetted, and directly participated in, the 'false instrument' commission/committee reports that have given pay raises to judges, legislators, the Attorney General, Comptroller, & indirectly, to the Governor & Lt. Governor – and to D.A.s. He is fully familiar with, & complicit in, the massive corruption of NY's 3 gov't branches chronicled by the 7 complaints to JCOPE that are the first 7 exhibits of the Center for Judicial Accountability's June 6, 2022 verified petition/complaint in its lawsuit vs Gov. Hochul & her fellow 'selection members' of the Commission on Ethics & Lobbying in Government – & which will

be refiled as complaints to the Commission on Ethics & Lobbying in Government, today – its 1st day of life given to it, yesterday, by a financially-interested, flagrantly biased judge who, in collusion with an assistant attorney general whose virtually every word was a lie, knowingly and wilfully violated his duty, based on black-letter law (CPLR 6312(a) & (c)) & the record before him, in denying a TRO/preliminary injunction, thereby inflicting on the public a bogus ‘ethics commission reform’, enacted unconstitutionally, unlawfully, & by fraud, stripping them of vital safeguarding rights.”

Three minutes later, at 5:40 a.m., I sent the “continuation –”, stating:

“With Cardozo as a member, the public’s injury will be compounded. Call me for the chapter & verse details & EVIDENCE of Cardozo’s long history of unethical, criminal conduct. Thank you. Elena Sassower, Director, Center for Judicial Accountability, Inc. (CJA) 914-421-1200.”

A week later, on July 15<sup>th</sup>, at 4:27 p.m., I sent the following:

I have received no follow-up to my 2-part July 8<sup>th</sup> comment in opposition to Governor Hochul’s prospective nomination of Michael Cardozo to the Commission on Ethics and Lobbying in Government, whose 2nd part added: ‘...Call me for the chapter & verse details & EVIDENCE of Cardozo’s long history of unethical, criminal conduct.’ Were you not planning to interview me and request substantiating documents? Please advise. Thank you. Elena Sassower, Director, Center for Judicial Accountability, Inc. (CJA) 914-421-1200”.

And did Chair Crowell alert you, as required by your own rules, that he was absolutely disqualified from any involvement in the vetting of Mr. Cardozo by reason of his professional and personal relationships with him – [Mr. Cardozo having been, for 12 years, Mayor Michael Bloomberg’s corporation counsel](#), with [Mr. Crowell, during those same 12 years, serving as Mayor Bloomberg’s special counsel and then counselor](#). Both also are [board members of Citizens Union](#) – a supposed “good government group” whose corruption and corrupting of state governance [CJA has documented, for years](#). Indeed, Citizens Union was present for my testimony at the October 14, 2015 JCOPE/LEC Review Commission hearing, was directly knowledgeable of the facts giving rise to the *CJA v. JCOPE et al.* lawsuit before it was commenced, and, with other “good government groups”, has colluded to conceal those facts and this lawsuit from the public it purports to serve.

Certainly, too, Chair Crowell was duty-bound to have also apprised you that he was absolutely disqualified from vetting Mr. James, who, having been a member, with him, on the JCOPE/LEC Review Commission, may be presumed fully knowledgeable of its fraud, arising from its flagrant violations of conflict of interest rules by its members, set forth by my accompanying letter to you.<sup>1</sup>

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<sup>1</sup> See pages 3-8 thereof. Mr. James withdrew as a JCOPE/LEC member halfway through its six-month life, at the beginning of August 2014. This was more than six weeks after he would have received my [June 18, 2015 letter](#) and [June 22, 2015 letter](#). Seemingly, he handpicked a subordinate of his to replace him on the JCOPE/LEC Review Commission, Christopher Pisciotta, which was not publicly announced (see last page of appendix of the [JCOPE/LEC Review Commission’s November 1, 2015 report](#)) & [my July 27, 2022 comment](#)

Your procedural rules state:

“• Upon the receipt of a nomination from a Selection Member, an IRC member shall assess whether there are any potential conflicts with their participation in the review process. Law school or university counsel may be consulted to facilitate this process. The IRC member shall disclose to the IRC (1) any personal, professional, financial, or other direct or indirect relationships they believe they may have with the Selection Member or nominee; and/or (2) any institutional conflicts they or their law school and/or university believe they may have with the Selection Member or nominee. In cases of Category 1 potential conflicts, the IRC member’s alternate representative may be required to participate in the review of the nominee. In cases of Category 2 potential conflicts, the institution’s dean or dean’s alternate representative may be recused entirely from participation in the review process of the Selection Member’s nominee(s).

• The IRC shall conduct individual personal interviews of each nominee. Such interviews may take place in person, or virtually using a remote platform, at the discretion of the IRC. Nominee interviews may be undertaken by a panel of no fewer than three IRC members, designated by the Chair of the IRC, who shall report the outcomes of such interviews to the IRC as a whole, as part of the review of each nominee’s full record.”

Had you investigated my comment regarding Mr. Cardozo, you would have confirmed that, as I said I would, [I re-filed with CELG the same seven complaints that I had filed with JCOPE – these being the first seven exhibits to the petition/complaint in \*CJA v. JCOPE, et al.\* – plus an eighth complaint “against Attorney General Letitia James for litigation fraud in \*CJA, et al. v. JCOPE, et al.\* \[\]– arising from the same conflict of interest Public Officers Law §74 violations as were the subject of CJA’s March 5, 2021 complaint, unaddressed by JCOPE”](#).

These eight complaints ALL involve, and have their genesis in, the “false instrument” [August 29, 2011 report of the Commission on Judicial Compensation](#), then replicated by the “false instrument” [December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation](#), whose materially-identical statutory violations and fraud boosted judicial salaries for New York Supreme Court justices from the \$136,700 they were prior to April 1, 2012 to the approximately \$210,000 they presently are. CELG’s investigative inquiry by the simple expedient of sending 15-day letters to the complained-against legislative and executive public officers concerning the Public Officer §74 violations particularized at pages 4-9 of the first of those eight complaints, the June 27, 2013 complaint ([Exhibit G to the petition/complaint](#)) – as JCOPE was mandated to have done – will trigger a chain of events that will cause judicial salaries to plummet by approximately \$80,000 per year and subject the justices and judges who have been beneficiaries of the fraudulent salary increases to claw-backs.

Three proposed nominees were, until recently, state judges – and the claw-backs they will be confronted with will be approximately three quarters of a million dollars each. These three proposed nominees are:

- [Assembly Minority Leader Barclay’s proposed nominee Edward Carni, ESQ.](#), who, [since January 2009 until he retired in February 2022](#), was an Appellate Division, Fourth Department justice;
- [Assembly Speaker Heastie’s proposed nominee Robert E. Torres, ESQ.](#), not originally announced with a [comment period](#), who, [since 2005 until after his re-election in 2018](#), was a Bronx County Supreme Court justice;
- [Assembly Speaker Heastie’s proposed nominee Leonard B. Austin, ESQ.](#), not originally announced with a [comment period](#), who, [since March 2009 until he retired in January 2022](#), was an Appellate Division, Second Department justice.

As for [Emily Jane Goodman, ESQ.](#), who is [Attorney General James’ nominee](#), her 25-year judicial past ended in March 2012 – before the first judicial salary increases took effect. However, and apart from her public stance on the judicial pay raise issue, reflected by the July 4, 2011 [New York Times](#) article “[Frozen Pay, More Judges Leave the Bench](#)”, she has a plethora of relationships with judges who would be directly impacted by the ONLY determination that an impartial CELG could make concerning CJA’s June 27, 2013 and subsequent complaints, *to wit*, that the failure of executive and legislative constitutional officers to void the Commission on Judicial Compensation’s August 29, 2011 report and the Commission on Legislative, Judicial and Executive Compensation’s December 24, 2015 report cannot be explained as other than the product of a multitude of conflicts of interest, such as [CJA’s June 27, 2013 complaint](#) detailed at pages 4-7 – and as appeared at page 3 of my [June 18, 2015 letter to the JCOPE/LEC Review Committee](#).

First among those who would be impacted is former [Chief Administrative Judge Lippman, who, in 1989 appointed then Civil Court Judge Goodman to be an acting Supreme Court justice](#) and who, [with the connivance of the Legislature, became Chief Judge in February 2009](#), with full knowledge of the corruption infesting New York’s judiciary, involving judicial selection, judicial discipline, the Commission on Judicial Conduct, the court-controlled attorney disciplinary system, about which he had done nothing. Two and a half years later, he would be directly responsible for perpetuating the fraud of the Commission on Judicial Compensation’s August 29, 2011 report, the evidentiary proof of which I furnished him by [CJA’s October 27, 2011 opposition report](#), which – as he was an appointing authority for two of the seven members of the Commission on Judicial Compensation – was addressed to him and hand-delivered on that date for him to the Office of Court Administration’s New York City office. Five months later, as a result of his inaction, he and the Unified Court System would be named defendants in CJA’s declaratory judgment action against the three government branches, commenced by a [March 30, 2012 verified complaint](#), particularizing his knowledge and involvement (¶¶13, 14, 24-26, 56-57, 73-76, 78-83, 109-114, 121-125) – with [service of two copies on April 5, 2012](#).

Inasmuch as you have a question on your “[Appointments Questionnaire Addendum A](#)”:

7) Do you anticipate that you may have to recuse yourself in any deliberations in your capacity as an appointed member of the the (sic) board or commission for which you are being considered in the future?”,

shouldn't you tell these four proposed former-judge nominees about CJA's eight complaints that await them at CELG – and confirm that they “anticipate” recusing themselves from such complaints?

As for the other proposed nominees – [Frederick A. Davie, proposed by Governor Hochul](#), and [Claudia Edwards, proposed by Senate Majority Leader Stewart-Cousins](#) – it is essential that you also discuss with them CJA's eight complaints, as they actually also have a disqualifying financial interest, inasmuch as the new Executive Law §94.4(f) establishing CELG states:

“...Members of the commission shall receive a per diem allowance equal to the salary of a justice of the supreme court divided by two hundred twenty for each day or each pro-rated day actually spent in the performance of the member's duties under this section...a day shall consist of at least seven and one-half hours spent in the performance of the member's duties under this section.”

Indeed, it might be cynically surmised that tying CELG commissioners' *per diems* to “the salary of a justice of the supreme court” – which had NOT been in the Executive Law of the Public Integrity Reform Act of 2011 establishing JCOPE<sup>2</sup> – was deliberately inserted so as to disqualify, for financial interest, ALL commissioners from CJA's complaints involving, as they all do, the unconstitutionality, unlawfulness, and fraud of the judicial salary levels that have resulted from the Commission on Judicial Compensation's August 29, 2011 report and the Commission on Legislative, Judicial and Executive Compensation's December 24, 2015 report.

Apart from the financial interest of all proposed nominees in CJA's eight complaints by virtue of the *per diem* tie to judicial salary, do the proposed nominees have the integrity to rise above the personal and professional relationships they likely have with the selection members who appointed them to investigate the Public Officer Law §74 violations the complaints particularize concerning the selection members? And will the proposed nominees do so where – as the complaints make obvious from the EVIDENCE they furnish – their duty will require them to refer the selection members to criminal authorities for their flagrant public corruption, destroying constitutional, lawful governance and stealing vast sums of taxpayer monies – for which, following indictment, they will be convicted, along with hundreds of co-conspirators and accomplices, in and out of government.

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<sup>2</sup> The former Executive Law §94.8 had stated:

“The members of the joint commission shall receive a per diem allowance in the sum of three hundred dollars for each day actually spent in the performance of his or her duties under this article...”.

Finally, pursuant to Executive Law §§94.1(c), (d), and §94.5, and §94.6, the proposed nominees who you will be approving to sit on CELG will have to examine, as their first order of business, what they have inherited from JCOPE. That inheritance, as pertains to JCOPE's handling of complaints, is utter corruption – and the verified petition/complaint in *CJA v. JCOPE, et al.* proves this resoundingly.

For this reason, it is essential that you discuss with ALL proposed nominees the significance of the lawsuit, so that they understand that, if seated on CELG, their JOB #1 will be:

- (1) top-to-bottom house-cleaning, terminating complicit staff, beginning with Executive Director Berland, who has remained in charge – rather than, as they would otherwise assume, relying on him and others for guidance; and
- (2) putting in place, by procedural rules, the mandatory safeguarding provisions of the former Executive Law pertaining to JCOPE that were stripped from the Executive Law §94 governing CELG – these being the mandatory provisions that are the subject of the lawsuit's first cause of action (§§27-41) and second cause of action (§§42-47).

In keeping with your admirable “[pre-interview questionnaire](#)” – and so that nominees can, in real-life, actual terms, grapple with and demonstrate their integrity and fidelity to unconflicted, ethical conduct – without having to rely on you – I am simultaneously e-mailing this letter and its related companion letter to the ten current proposed nominees, Governor Hochul having peculiarly not come forward, in all this time, with her third proposed nominee.

To further assist you, CJA's evidentiary webpage for both letters is [here](#). It features links to webpages aggregating the evidence dispositive of the absolute unfitness of each of the four proposed nominees about whom I submitted comment to their respective selection members – and which should have resulted in IMMEDIATE withdrawal of their names as proposed nominees, rather than, as it appears, the selection members submitting them to you, without public announcement, as their nominees. The evidentiary webpage for Mr. Cardozo that I prepared in anticipation of a request for substantiation of my above-quoted July 8<sup>th</sup> comment and July 15<sup>th</sup> follow-up — of which there was none on behalf of Governor Hochul, or from this Independent Review Committee – is [here](#).

Thank you.

s/ELENA RUTH SASSOWER