

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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June 18, 2015

TO: JCOPE/LEC Review Commission
Anthony Crowell, New York Law School Dean
Michael Feldberg, former Assistant U.S. Attorney/SDNY
Seymour James, Attorney-in-Chief, Legal Aid Society/NYC
Tony Jordan, Washington County District Attorney
William LaPiana, New York Law School Professor
Elizabeth Moore, former counsel to Governor Mario Cuomo
Patricia Salkin, Touro Law School Dean
Dale Volker, former New York State Senator & Assemblyman

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

RE: Ensuring Honest Review by the JCOPE/LEC Review Commission
(1) Your Methodology for Reviewing and Evaluating the Joint Commission on Public Ethics & Legislative Ethics Commission – Including Public Hearings;
(2) Your Protocol with Respect to Conflicts of Interest

According to a May 1, 2015 press release posted on the Governor's website¹, you are the "eight individuals" who the Governor, Temporary Senate President, and Assembly Speaker appointed as the review commission "tasked with reviewing and evaluating the activities and performance of the Joint Commission on Public Ethics and the Legislative Ethics Commission", with your report due by November 1, 2015.

The press release does not indicate who of you is chair– or identify any of the circumstances giving rise to the JCOPE/LEC review commission, namely, that the Governor, Temporary Senate President, and Assembly Speaker, having willfully violated Section 21 of Part A of Chapter 399 of the Laws of 2011, then devised, in "three-men-in-a-room", behind-closed-doors fashion, to amend it as Part DD of Budget Bill S.2006-B/A.3006-B, introduced on March 31, 2015 and passed by the Legislature, hours later, *via* a "message of necessity".²

¹ "Appointments to the JCOPE Review Commission, Announced by Governor, Senate and Assembly", <https://www.governor.ny.gov/news/appointments-jcope-review-commission-announced-governor-senate-and-assembly>

² Part DD of Budget Bill S.2006-B/A.3006-B reads:

Was a chair not jointly designated by the Governor, Temporary Senate President, and Assembly Speaker, as Part DD requires? I have been unable to locate any subsequent press releases announcing the chair – or furnishing contact information for the review commission, or identifying how you intend to go about your work.

Are there no subsequent press releases? Who among you has been designated chair and when was that designation made? Does the review commission have an office, a phone number, an e-mail, a website? Do you have staff – and who are they? What is your methodology? Will you be holding public hearings at which members of the public who have filed ethics complaints with JCOPE and LEC can testify and afford you the benefit of their direct, first-hand experience and insights? If so, when do you plan to announce those hearings?

If you are not planning public hearings, will you be privately taking testimony from members of the public who have filed ethics complaints with JCOPE and LEC? Will you be doing outreach to them – or must they reach out to you?

Please be advised that our nonpartisan, nonprofit citizens' organization, Center for Judicial Accountability, Inc. (CJA), has filed conflict-of-interest ethics complaints with both JCOPE and LEC. These complaints establish, *prima facie* and conclusively, that JCOPE and LEC are corrupt facades, brazenly violating the statutory and rule provisions under which they are supposed to operate so as to “protect” their appointing authorities – the Governor and Legislative Leaders – and other influential or connected persons from investigation, prosecution, and sanction.

In the likely event that the staff and members of JCOPE and LEC have not alerted you to CJA's ethics complaints and your duty, as the review commission, to “blow the whistle” on their “protectionism” and cover-up, the complaints are posted on CJA's website, www.judgewatch.org,

“Section 1. Section 21 of part A of chapter 399 of the laws of 2011, relating to establishing the public integrity reform act of 2011, is amended to read as follows:

S 21. No later than [June 1, 2014] MAY 1, 2015, the governor [and], the [legislative leaders] TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY shall jointly appoint a review commission to review and evaluate the activities and performance of the joint commission on public ethics and the legislative ethics commission in implementing the provisions of this act. On or before [March] NOVEMBER 1, 2015, the review commission shall report to the governor and the legislature on its review and evaluation which report shall include any administrative and legislative recommendations on strengthening the administration and enforcement of the ethics law in New York state. The review commission shall be comprised of eight members and the governor [and], the [legislative leaders] TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY shall jointly designate a chair from among the members.

S 2. This act shall take effect immediately.”

accessible from the prominent homepage link: “Exposing the Fraud of the Commission to Investigate Public Corruption”. This brings up a menu page with a link entitled “Going Where the Commission to Investigate Public Corruption Did NOT: ...JCOPE”.

The first three items on that JCOPE webpage are our July 11, 2014 and July 18, 2014 letters culminating in our December 11, 2014 ethics complaint to JCOPE which was a complaint against JCOPE and its appointing authorities – the Governor and Legislative Leaders – for their violation of Public Officers Law §74 relating to conflict of interest with respect to Section 21 of Part A of Chapter 399 of the Laws of 2011: the essentially identical review commission that the Governor and Legislative Leaders (minority, in addition to majority) were required to appoint by June 1, 2014, but did not, and whose report was due by March 1, 2015 (fn. 2, *supra*).

In pertinent part, our December 11, 2014 ethics complaint states:

“any legitimate review commission would have to ‘blow the whistle’ on JCOPE and expose its corrupt protectionism of the Governor and Legislative Leaders – as proven, resoundingly, by CJA’s June 27, 2013 ethics complaint against them and other public officers that JCOPE has been sitting on, now going on 18 months.” (at p. 2, underlining in the original).

JCOPE has now been sitting on CJA’s June 27, 2013 ethics complaint for nearly 24 months – a dereliction that has cost New York taxpayers upwards of \$120 million in statutorily-violative, fraudulent, and unconstitutional judicial salary raises that the Governor, Attorney General, Comptroller, and Legislators were duty-bound to void, *but did not, because judicial salary raises were the means to their own salary raises*. And reinforcing the truth of what pages 4-6 of the June 27, 2013 complaint particularize as to the violations of Public Officers Law §74 by the Governor, Attorney General, Comptroller, and Legislators, born of their “self-interest in the judicial pay raises” and their “self-interest in the ‘success’ of the statute creating the Commission on Judicial Compensation”, is that in this year’s “three-men-in-a-room”, behind-closed-doors, budget deal-making – to which rank-and-file Legislators gave their rubber stamp – the Governor, Temporary Senate President, and Assembly Speaker inserted into Budget Bill S.4610-A/A.6721-A a Part E, repealing the statute that had created the Commission on Judicial Compensation and putting in its place a Commission on Legislative, Executive, and Judicial Compensation, structured in materially-identical fashion.³

³ On its face, Part E, establishing a Commission on Legislative, Executive, and Judicial Compensation is as unconstitutional as the repealed provision of Chapter 567 of the Laws of 2010, establishing the Commission on Judicial Compensation, as it identically allows the Commission’s salary increase recommendations to have the force of law, automatically, without executive or legislative action. And because of executive and legislative self-interest, to which JCOPE’s nonfeasance has given a green light, no executive or legislative action will restrain the Commission from operating in the same statutorily-violative, fraudulent, and unconstitutional fashion as the Commission on Judicial Compensation did, with consequences catastrophic for the People of New York.

That legislative rules vest coercive, autocratic powers in the Temporary Senate President and Assembly Speaker, so impinging upon the exercise of independent judgment by rank-and-file Legislators that they surrender legitimate legislative process – as with Budget Bill S.4610-A/A.6721-A, introduced and passed on the same day, March 31, 2015, with an assist by the Governor through a “message of necessity” – is a further important issue presented by the June 27, 2013 complaint that JCOPE has been sitting on.

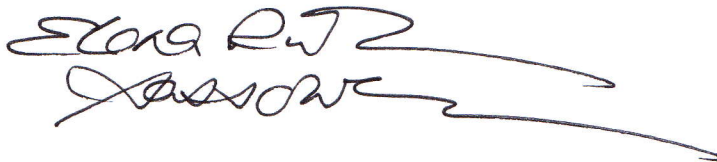
Plainly, you have relationships and associations with the Governor, Temporary Senate President, and Assembly Speaker who appointed you to the review commission and with other persons who are the subject of CJA’s two conflict-of-interest JCOPE complaints. Likewise you have relationships and associations with the multitude of persons complicit in JCOPE’s corruption, as for instance, U.S. Attorney for the Southern District of New York Preet Bharara, a recipient of CJA’s December 11, 2014 complaint, just as he was of CJA’s underlying July 11, 2014 and July 18, 2014 letters. What is your protocol for dealing with conflicts of interest?

For example, undisclosed by the May 1, 2015 press release, with its brief bios of each of you, is that Seymour James was a member of the Commission to Investigate Public Corruption. I testified before the Commission on September 17, 2013, furnishing the June 27, 2013 ethics complaint in support of my testimony. How will Mr. James be able to discharge his duties as a member of this review commission when doing so will expose his past dereliction and that of the Commission to Investigate Public Corruption with respect to the June 27, 2013 ethics complaint – and with respect to CJA’s underlying April 15, 2013 criminal complaint to U.S. Attorney Bharara on which it rests, that U.S. Attorney Bharara has been sitting on.⁴ Will he – and you – have the independence to follow the evidence of JCOPE’s corruption that directly leads to U.S. Attorney Bharara and brings within its wake a “who’s who” of powerful, influential persons? These include the other indicated recipients of CJA’s December 11, 2014 ethics complaint, especially those addressed by our December 12, 2014 coverletter: Attorney General Eric Schneiderman, Albany County District Attorney P. David Soares, U.S. Attorney for the Northern District of New York Richard Hartunian, and the former U.S. Attorney for the Eastern District of New York, the now United States Attorney General, Loretta Lynch.

In the interest of transparency, this letter has been posted on CJA’s webpage “Going Where the Commission to Investigate Public Corruption Did NOT...JCOPE”. For your convenience, our webpage for this letter also posts our two ethics complaints that went nowhere at JCOPE, as well as ethics complaints that others filed with JCOPE, likewise against high-ranking public officers, that

⁴ On October 17, 2013, I sent an e-mail directly to the members and special advisors of the Commission to Investigate Public Corruption, attaching a letter pertaining to my September 17, 2013 testimony. Identifying that I had no e-mail address for Commissioner James, among others, the transmitting e-mail requested that they forward it to him “so that all may be held accountable to the People whose trust in New York’s government and its public officials the Commission is supposed to restore.” The e-mail and its transmitted letter are enclosed herewith, as well as posted, with this letter, on CJA’s website, *infra*, together with my September 17, 2013 written statement and the video of my September 17, 2013 oral testimony.

similarly went nowhere. Presumably, U.S. Attorney Bharara obtained all these complaints when, in late April 2014, he reportedly served JCOPE with a subpoena for all complaints filed with it.⁵

A handwritten signature in black ink, appearing to read "Preet Bharara", with a long horizontal flourish extending to the right.

Enclosure: CJA's October 17, 2013 e-mail and letter to members & special advisors of the Commission to Investigate Public Corruption

cc: Joint Commission on Public Ethics (JCOPE)
Legislative Ethics Commission (LEG)
U.S. Attorney for the Southern District of New York Preet Bharara
All recipients of CJA's December 11, 2014 ethics complaint, plus
Temporary Senate President John Flanagan
Assembly Speaker Carl E. Heastie
The Public & The Press

⁵ See, CJA's July 11, 2014 letter (fn. 4) and July 18, 2014 letter (fn. 1), underlying and annexed to CJA's December 11, 2014 ethics complaint.

Center for Judicial Accountability

From: Center for Judicial Accountability <elena@judgewatch.org>
Sent: Thursday, October 17, 2013 5:13 PM
To: comments@moreland.ny.gov; (betty.ellerin@alston.com); (DA@co.franklin.ny.us); (djones@cssny.org); (lliebman@law.columbia.edu); (Peter.Zimroth@aporter.com); (RMMorgenthau@wlrk.com); Barbara Bartoletti (bbheck1@yahoo.com); Benito Romano Esq. (benito.romano@freshfields.com); cheryl.rice@nassauda.org; Daniel J. Castleman (dan.castleman@fticonsulting.com); David Javdan Esq. (djavdan@alvarezandmarsal.com); david.soares@albanycounty.com; Eric Corngold Esq. (ecorngold@fklaw.com); Frank A. Sedita III (seditaf@erie.gov); Gerald F. Mollen (gmollen@co.broome.ny.us); Joanne M. Mahoney (joaniemahoney@ongov.net); Kathleen B. Hogan (hogank@warrencountyny.gov); Kristy Sprague (KSprague@co.essex.ny.us); Makau W. Matua (mutua@buffalo.edu); mwilliams@vladeck.com; Nancy Hoppock (nancy.hoppock@nyu.edu); P. David Soares (egalarneau@albanycounty.com); Richard Briffault (rb34@columbia.edu); Robert Johnson (anguairl@bronxda.nyc.gov); Thomas P. Zugibe (info@rocklandcountyda.com); williamfitzpatrick@ongov.net
Subject: Commission to Investigate Public Corruption: Follow-Up to Sept. 17 Testimony of Center for Judicial Accountability Director Elena Sassower
Attachments: 10-17-13-letter-to-commission-members-etc.pdf; photo-box-at-window.jpg

Dear Commission Members & Special Advisors –

Attached is a self-explanatory letter of today's date pertaining to my testimony before you at the Commission's September 17th public hearing in Manhattan. It is already posted on the Center for Judicial Accountability's website, www.judgewatch.org – on the same page as with our previous correspondence to the Commission, beginning with our August 5th letter. Here's the direct link: <http://www.judgewatch.org/web-pages/searching-nys/commission-to-investigate-public-corruption/aug-5-2013-ltr-etc.htm> .

As I have no e-mail addresses for the following: (1) Commissioner J. Patrick Barrett; (2) Commissioner Seymour James, Jr.; (3) Special Advisor D'Amico; (4) Special Advisor Raymond Kelly, please ensure that this e-mail is forwarded to them, so that all may be held accountable to the People whose trust in New York's government and its public officials the Commission is supposed to restore.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
914-455-4373

P.S. Below is my September 18th e-mail itemizing the documentary evidence I furnished the Commission at the September 17th hearing in support of my testimony – and what I had hand-delivered for District Attorney Soares' Public Integrity Unit on August 21st, in substantiation of our July 19th corruption complaint (highlighting added). The photo of that hand-delivery is attached.

From: Center for Judicial Accountability [mailto:elena@judgewatch.org]
Sent: Wednesday, September 18, 2013 12:27 PM
To: comments@moreland.ny.gov

Cc: williamfitzpatrick@ongov.net; cheryl.rice@nassauda.org; mwilliams@vladeck.com; david.soares@albanycounty.com; Eric Galarneau (egalarneau@albanycounty.com)

Subject: Sept 17th Testimony of Elena Sassower, Director/Center for Judicial Accountability

TO: COMMISSION TO INVESTIGATE PUBLIC CORRUPTION

Attached is a superseding copy of the testimony I e-mailed to you yesterday at 2:46 pm – the original of which I furnished at the conclusion of the hearing to Bryce Jones. It corrects typographic errors in the sentence on the 2nd page of my testimony, now reading:

“Indeed, it may truly be said that ALL the witnesses testifying before you today about the judicial abuse and lawlessness that scarred and destroyed their lives– and who will be testifying before you at subsequent hearings – and who have and will be submitting statements – would either not have been so-victimized or would have long ago secured redress, but for what a succession of corrupt New York state judges did in ‘throwing’ these three Article 78 proceedings by fraudulent judicial decisions, aided and abetted by a panoply of state and federal public officers, all of whom we alerted to what was taking place, as likewise the press, academia, bar associations, and ‘good government groups’.”

Obviously, this is one of the most important sentences of my testimony.

The testimony is posted on CJA’s website – on a webpage especially created for it – and posts hyperlinks for the substantiating evidence – including VIDEO evidence. Here it is: <http://www.judgewatch.org/web-pages/searching-nys/commission-to-investigate-public-corruption/people-evidence/sassower-elena.htm>

I brought hard copies of the documentary evidence, supporting my testimony, to the table during my oral presentation – and handed it to Mr. Jones at the end of the hearing. I briefly explained to him how I had organized it, for the Commission, which is as follows:

FOLDER 1: Testimony: containing (1) my September 17, 2013 written testimony; (2) my draft statement for the Senate Judiciary Committee’s December 16, 2009 hearing on the Commission on Judicial Conduct & court-controlled attorney disciplinary system; and (3) my August 13, 2013 letter to the Commission, plus subsequent e-mails – all unresponded-to; and (4) my August 22, 2013 e-mail to Commission Special Advisor Bartoletti, with August 21, 2013 letter to Governor Cuomo & “Guide to Legislative Oversight”

FOLDER 2: Corruption Complaints: The first is CJA’s July 19, 2013 corruption complaint to Commissioner DA Soares – as it enclosed all the other corruption complaints (in addition to the Executive Summary to CJA’s October 27, 2011 Opposition Report). Also included: CJA’s April 2, 2013 NOTICE to the Senate Finance Committee and Assembly Ways & Means Committee, which I furnished to DA Soares with the hand-delivery of the below substantiating materials, on August 21, 2013

FOLDER 3: Correspondence enclosed with CJA’s April 15, 2013 corruption complaint to US Attorney Bharara

AND..THE VERIFIED COMPLAINT in CJA v. CUOMO -- bundled by rubberbands to its Exhibits

By the way, here’s a photo of the box containing the substantiating materials I delivered to D.A. Soares office, for his Public Integrity Bureau Chief Eric Galarneau, taken at the receiving window on August 21, 2013. The box should be preserved, as even it has evidentiary significance, reflecting a return address of “The Nelson A. Rockefeller Institute of Government” . I will elaborate further at a later time. Suffice to refer you to page 8 of my Aug 5, 2013 letter to the Commission, identifying “the corruption of yet another essential safeguard to protecting against public corruption: that furnished by academia through honest, evidence-based scholarship. Such scholarship does NOT exist for huge and critical areas to which your investigations must reach.” (capitalization in original).

I am available to assist the Commission in its investigations, including by furnishing methodologies that make sense. Feel free to call to invite me to do so.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
914-455-4373

From: Center for Judicial Accountability [<mailto:elena@judgewatch.org>]

Sent: Tuesday, September 17, 2013 2:46 PM

To: comments@moreland.ny.gov

Subject: Testimony for Tonight's Hearing: Elena Sassower, Director/Center for Judicial Accountability

Attached is my written testimony for tonight's hearing – superseding the draft sent yesterday.

It is already posted on our website, with the substantiating referred-to evidence. Here's the direct link:
<http://www.judgewatch.org/web-pages/searching-nys/commission-to-investigate-public-corruption/people-evidence/sassower-elena.htm> .

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
914-455-4373

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October 17, 2013

TO: Commission Members & Special Advisors
of the Commission to Investigate Public Corruption

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

RE: Follow-Up to September 17, 2013 Testimony
(1) CJA's Unresponded-to August 5, 2013 Letter and Subsequent Correspondence Pertaining to the Commission's Procedures, Rules, Protocol for Conflicts of Interest, and Public Hearings;
(2) CJA's Unresponded-to July 19, 2013 corruption complaint and intervention request to Commission Member Albany County District Attorney Soares

It is now a month since my September 17, 2013 testimony at the Commission's public hearing in Manhattan. Referring to CJA's August 5, 2013 letter entitled "Keeping the Commission to Investigate Public Corruption True to its Name & Announced Purpose" and to our subsequent correspondence, to which there had been no response, I stated:

"This Commission is supposed to restore, restore public trust... You have serious and substantial correspondence about your procedures, your rules, and you don't respond...

I respectfully submit and ask each member of this Commission to read the correspondence that was withheld from you by your Executive Director, Regina Calcaterra, and by your three Co-Chairs because I think you need to know how they are operating and also because, as I'm sure you know, most of you being lawyers, that there are threshold issues relating to conflicts of interests. You are presuming to judge others as to conflicts of interest. How are you, how are you, what are your rules and procedures, what is your protocol for conflicts of interest?..." (at 2:23:00, underlining added).

Have you read CJA's August 5th letter and subsequent correspondence?¹ Do you subscribe to the non-response of Executive Director Calcaterra and your Co-Chairs, Onondaga County District

¹ CJA's website, www.judgewatch.org, posts the August 5, 2013 letter and subsequent correspondence on its own webpage, as part of our "People's Campaign to Hold the Commission to Investigate Public Corruption True to its Name & Announced Purpose". Here's the direct link: <http://www.judgewatch.org/web->

Attorney William Fitzpatrick, Nassau County District Attorney Kathleen Rice, and Milton Williams, Jr.?

If not, why has there been no response from you since? And are you aware that your Executive Director and Co-Chairs have continued to ignore CJA's correspondence? This includes our September 18th e-mail itemizing the documentary materials I furnished the Commission at the September 17th hearing in support of my oral and written testimony and stating:

"I am available to assist the Commission in its investigations, including by furnishing methodologies that make sense. Feel free to call to invite me to do so."

It also includes our October 4th letter entitled:

"When Will the Commission to Investigate Public Corruption be Holding Public Hearings at Which the Public Will be Able to Testify as to the Breadth of Public Corruption Within its Knowledge and Experience?, Etc."

As noted by that October 4th letter, the Commission has thus far afforded the public only an hour and a half at a single public hearing – the Manhattan hearing – to testify as to the breadth of public corruption. Indeed, following the September 17th Manhattan hearing, the Commission restricted the subject areas of the September 24th Albany hearing to effectively bar the public from testifying as to the public corruption within its knowledge and experience. Presumably, this was to prevent a replay of what took place in the hour and a half of public testimony at the Manhattan hearing when so many members of the public presented oral and written testimony of pervasive judicial corruption in which U.S. Attorneys, District Attorneys, the New York State Attorney General, and other public officers and agencies are complicit. This is, of course, diametrically opposite to the Commission's pretense, born of its personal, professional, and political relationships and interests, that U.S. Attorneys, District Attorneys, the New York State Attorney General, and others are corruption fighters.

Indeed, based on our July 19, 2013 corruption complaint to Commission member Albany County District Attorney P. David Soares, to which I referred when I testified and which our August 5th letter identified (at p. 5) as having been e-mailed to the Commission on July 22, 2013,² nothing could have been more obscene than for the Commission, presumably by its Co-Chairs, to have invited U.S.

pages/searching-nys/commission-to-investigate-public-corruption/aug-5-2013-ltr-etc.htm . A separate webpage posts a video clip of my September 17, 2013 oral testimony, written statement, and the evidence that substantiates both. Here's the direct link: <http://www.judgewatch.org/web-pages/searching-nys/commission-to-investigate-public-corruption/people-evidence/sassower-elena.htm>.

² District Attorney Soares was an indicated recipient of our August 5th letter for this reason. He was also included as a recipient of all our subsequent correspondence to the Commission's Executive Director and three Co-Chairs -- as was Eric Galarneau, Chief of his Public Integrity Unit.

Attorney Preet Bharara and U.S. Attorney Loretta Lynch to testify at the September 17th hearing, to be heralded as heroes by District Attorney Fitzpatrick³ and allowed to posture themselves and be portrayed as crusaders against public corruption⁴ – without a question from the Co-Chairs or District Attorney Soares as to their inaction on the open-and-shut, *prima facie*, April 15, 2013 and May 13, 2013 corruption complaints we filed with them against Governor Cuomo, Attorney General Schneiderman and New York’s other highest public officers for grand larceny of the public fisc and other corrupt acts in connection with the judicial pay raises and unitemized, slush fund budget appropriations – inaction giving rise to our July 19th corruption complaint to District Attorney Soares.

Certainly, too, for District Attorney Fitzpatrick to have trumpeted District Attorney Soares’ Public Integrity Unit as “one of the innovative things” he has done (at 0:8:50) – as if it is properly functioning – was a further deceit, unless he was unaware of that unit’s inaction on our July 19th complaint, born of District Attorney Soares’ financial and other conflicts of interest – conflicts afflicting other Commission members, special advisors, and staff, as well.

I was cut off at the September 17th hearing as I began to speak about the July 19th complaint. In the event you have not yet read it – a hard copy of which was beside me when I testified – here’s the direct link to our webpage for the complaint, where it is posted with the six inches of documentary proof I furnished District Attorney Soares and the Commission: <http://www.judgewatch.org/web-pages/judicial-compensation/albany-da.htm>. Suffice to quote its concluding paragraphs:

“Needless to say, your handling of this complaint necessarily begins with acknowledging and confronting conflicts of interest – starting with District Attorney

³ District Attorney Fitzpatrick, referring to U.S. Attorney Bharara: “Now, let me have the pleasure of introducing a great American who has done as much to restore that integrity as any other New Yorker. I suspect that sometimes our first speaker must feel like Diogenes walking through the halls of Albany looking for an honest man.”; “It’s very comforting to know that the right man is in charge in the Southern District”; District Attorney Fitzpatrick, referring to U.S. Attorney Lynch: “We are very fortunate tonight to have, as our second speaker, another legendary name in law enforcement in the State of New York.”; “...most of all, thank you for answering our President’s call and coming back to public service. The citizens of New York are very lucky you said yes.”

⁴ U.S. Attorney Bharara: “Fighting public corruption has been a top priority for my office for a long while, as it has been for my friends Loretta Lynch and Cy Vance.”

U.S. Attorney Lynch: “Now, 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... Our current cases continue this rich tradition of protecting the public fisc and attempting to safeguard the public’s faith in the political system.”

New York County District Attorney Cyrus Vance: “As you just heard from my colleagues, the U.S. Attorneys for the Southern and Eastern Districts of New York, and as everyone in New York government knows well, the FBI and federal prosecutors have been remarkably successful in policing and prosecuting our public officials...”

Soares' own financial interest and that of every other New York district attorney in perpetuating the 'grand larceny of the public fisc' here at issue inasmuch as district attorneys salaries are statutorily linked to judicial salaries.^[fn]

I propose we discuss this and other equally substantial conflicts of interest so that an appropriate threshold determination may be made as to whether District Attorney Soares can and should be handling this corruption complaint and intervention request – or whether referral to some other public officer or body is in order so that the public fisc and public interest may be served and protected.

I stand ready to assist you to the fullest, to be interviewed under oath, and to give testimony before a grand jury. For immediate purposes, I am – as you requested – accompanying this letter with your complaint form which requires that I acknowledge that 'any false statements made in this complaint are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.' This I have done.

As the Moreland Commission to Investigate Public Corruption will be holding its first public hearing on September 17, 2013, and I have already telephoned and requested to testify, it would be additionally beneficial for us to work together to resolve the conflict of interest issues and straightforward evidentiary matters pertaining to this complaint – and not unique to this complaint.” (pp. 6-7, underlining in the original).

You may be sure that among the referred-to “other equally substantial conflicts of interests” I would have discussed with District Attorney Soares and his Public Integrity Unit, had either seen fit to contact me about the July 19th corruption complaint, is the close relationship between District Attorney Soares and Governor Cuomo and Attorney General Schneiderman, such that, at the July 2, 2013 press conference at which Governor Cuomo announced this Commission, the video shows District Attorney Soares in an honored seat beside the Attorney General, with the Governor talking to him for a full two minutes before the press conference begins.

Thus, my public exclamations at the Commission's September 24th hearing in Albany during the testimony of Mark Sacha, audible from the video (at 2:22:58 – 2:29:26):

Sacha: “...I am here to advise the public and the voting citizens of New York of the 'elephant in this room'. The hypocrisy which has not yet been addressed before this Commission. Election fraud and public corruption are not prosecuted properly, in my opinion, not because of the lack of laws in this State but because of the lack of will.”

Sassower: “By the D.A.s.”

Sacha: “The sad reality is that District Attorneys are political.”

Sassower: ““Yayy — right on!”

Sacha: “Many have horrible conflicts of interest – ”

Sassower: “Yes they do!”

Sacha: “– which affect their ability to act. In order to reach their position, they make alliances, they accept political money, and they cut political deals with other politicians. They reach their goals through these people.

The public has a right to know the truth based on my own personal experience. ...

...The public should know of the conflicts that exist.”

Sassower: “On this Commission, that they refuse to address.”

...

Sacha: “Ladies and Gentlemen, prosecuting the powerless is easy. The real test is when you are asked to prosecute or to investigate the powerful. The truth is that election law cases are not pursued because few elected District Attorneys will prosecute their political friends and political family.”

Sassower: “Right.”

Sacha: “District Attorneys have subpoena power. They have had it forever. They choose not to use it. They treat these cases differently, at least in my experience. They have the power and the means, but they lack the will. This is the sad truth. [Erie County District Attorney] Sedita has made public statements making it clear that he will not investigate election crimes. Yet he sits on this panel.

In this article from two days ago, Mr. Sedita says I do not investigate murder cases, I do not investigate sex crimes, and I damn sure don't investigate election cases. Yet he's on this panel.”

Sassower: “Outrageous.”

Do you approve of District Attorney Soares sitting on our July 19th corruption complaint for nearly three full months now? Surely, he would benefit from the Commission's role model example as to how he should be handling the conflicts of interest that are disabling him from discharging his duties – as, likewise, disabling the Commission.

In that connection, I refer you to Mr. Sacha's follow-up to his testimony: his October 9, 2013 complaint to the Commission, where, under the heading “Conflicts of Interest”, he describes this

“important preliminary point that must be understood”⁵:

“Legal ethics are not situational ethics. They apply to all, especially to those lawyers with power such as District Attorneys, elected officials and even governors. As you know, New York State Law designates District Attorneys as the chief law enforcement officers in their respective county. Each County District Attorney takes an oath to enforce the laws of New York State.

Legal ethics rules require attorneys to avoid conflicts. Loyalty and independent judgment are essential. The State of New York Unified Court System’s Rules of Professional Conduct require that the judgment of a lawyer should be exercised free of compromising influences and loyalties. The District Attorneys Association of the State of New York (DAASNY) Code of Conduct for political activity states that District Attorneys may not misuse their public positions for the purpose of obstructing or furthering the political activities of any political party or candidate. The National District Attorneys Association standards state in Section 1-3.3 Specific Conflicts, Subdivision (D):

‘The prosecutor should excuse himself or herself from the investigation and prosecution, or other matter where personal interests of the prosecutor would cause a fair-minded, objective observer to conclude that the prosecutor’s neutrality, judgment or ability to administer the law in an objective manner may be compromised.’

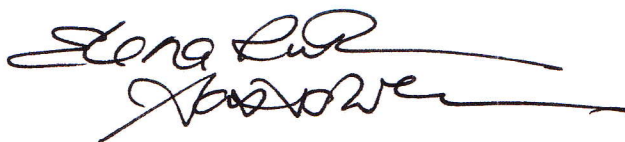
No District Attorney should decide a matter in which he or she has a personal interest. To do so damages the public trust and hinders the interest of justice. Where an actual or potential conflict of interest exists, the prosecutor should seek the appointment of a special prosecutor.” (at p. 3).

In addition to your response to our August 5th letter and subsequent correspondence, please advise whether you will be taking steps to secure a special prosecutor for our July 19th corruption complaint and its requested intervention in our People’s lawsuit, *Center for Judicial Accountability, Inc. et al. v. Andrew Cuomo and Eric Schneiderman, et al.* – and, if not, how you will address District Attorney Soares’ inaction and that of every other investigative and prosecutorial body with respect thereto, including not only U.S. Attorneys Bharara and Lynch, but U.S. Attorney Richard Hartunian, who shares geographic jurisdiction with District Attorney Soares.

⁵ Mr. Sacha’s October 9, 2013 complaint, the video clip of his September 24th testimony, and the written statement, with his handwritten notes, that he used as a guide when he testified, are posted on our website, on its own webpage. Here’s the direct link: <http://www.judgewatch.org/web-pages/searching-nys/commission-to-investigate-public-corruption/people-evidence/sacha-mark.htm>.

Meantime, a copy of my September 17th written testimony is enclosed.

Thank you.

A handwritten signature in black ink, appearing to read "Eric Galarneau". The signature is written in a cursive style with a long horizontal line extending to the right.

Enclosure

cc: Eric Galarneau, Chief, Public Integrity Unit/Albany County District Attorney Soares
Mark Sacha, Esq.
The Public & The Press