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Cc:

Date: Saturday, June 23, 2012 09:02 am

Subject: THE POWER OF SCANDAL: Winning the Primary against Incumbent Senator Stephen Saland by Exposing His Official Misconduct & Fraud Upon New York Taxpayers

Attachments:  11-8-11-executive-summary-opp-report.pdf (4MB)
 4-5-12-press-release.pdf (2MB)

Dear Neil,

Thank you for coming forward as a candidate to unseat Senator Stephen Saland. Your campaign manager, Zachariah Chichester, tells me that you are in this race to win -- and win you can.

Although I cannot speak to the whole of Senator Saland's 32 years in the legislature, I do have direct, first-hand knowledge of his official misconduct as a member of the Senate Judiciary Committee, flagrantly betraying both the interests of his constituents in the 41st Senate District and the People of the State of New York. Tellingly, neither Senator Saland's Senate website, <http://www.nysenate.gov/senator/stephen-m-saland>, nor his campaign website, www.stevesaland.com, disclose his membership on the Senate Judiciary Committee.

Our government depends on checks and balances between the branches. And it is the Senate Judiciary Committee, first and foremost, which has responsibilities overseeing the integrity and effectiveness of our judicial branch. Those responsibilities begin with examining the qualifications and fitness of the Governor's appointment of judges and, as part thereof, ascertaining that the screening processes he utilizes are properly functioning. Such is a prophylactic, ensuring the competence, integrity, and temperament of the judges who hear our disputes and make decisions affecting our individual lives, our state, and the public interest.

One does not have to be a lawyer – as Senator Saland is – to know that faulty judicial selection processes increase the likelihood of judges who are incompetent, abusive, and corrupt – and that this will make more imperative that the Senate Judiciary Committee discharge its further responsibility of ensuring that procedures to discipline and remove such judges are properly functioning.

Senator Saland was already a member of the Senate Judiciary Committee in 1993, when we first testified before it in opposition to Senate confirmation of Court of Appeals nominees. At that time, we saw, first-hand, the pattern that would repeat itself time and again over the next decade and a half as we testified, or sought to testify, at the Senate Judiciary Committee's judicial confirmation hearings, both in opposition to Court of Appeals nominees and nominees for the lower court: his complicity in the Committee's flagrant disregard of: (i) documentary evidence of nominee unfitness; (ii) the corruption of the constitutionally-ordained "merit selection" process to the Court of Appeals; (iii) the corruption of the Governor's purported judicial screening committees for the lower courts; (iv) and the public's rights with respect to these. Likewise, his complicity in the Committee's flagrant

disregard of documentary evidence that Appellate Division judges were using their control of attorney discipline to retaliate against judicial whistle-blowing lawyers and that appellate, supervisory, and disciplinary procedures for ensuring the integrity of the judiciary, including the Commission on Judicial Conduct, were corrupted.

Not until 2009 – with a change in leadership in the Senate and at the Senate Judiciary Committee – did the Senate Judiciary Committee hold hearings on the “merit selection” process to the Court of Appeals. Senator Saland was absent from these hearings – including the two hearings at which I testified. Likewise, he was absent from the Committee’s 2009 hearings on the Commission on Judicial Conduct – the first such hearings that the legislature held on the Commission on Judicial Conduct in 22 years, which it combined with hearings on the court-controlled attorney disciplinary system, perhaps the first ever.

Senator Saland is charged with knowing that the Senate Judiciary Committee undertook no investigation, made no findings, and issued no report with respect to my testimony at the 2009 hearings on the “merit selection” process for Court of Appeals judges. And he assuredly knows that it undertook no investigation, made no findings, and issued no report with respect to the testimony of the dozens of witnesses who testified about the corruption of the Commission on Judicial Conduct and attorney disciplinary system at the 2009 hearings which were aborted – as to which, on May 23, 2011, I sent letters to him and every other member of the Senate Judiciary Committee stating that our nonpartisan, nonprofit citizens’ organization would oppose any judicial pay raises until there was investigation and findings.

The foregoing is reflected in the allegations of the verified complaint in the public interest lawsuit that our non-partisan, nonprofit citizens organization commenced on March 30, 2012. Entitled *Center for Judicial Accountability, et al, v. Andrew M. Cuomo, et al.*, the “*et al*” defendants include Temporary Senate President Dean Skelos and the Senate, sued for their willful disregard of their checks and balance function to protect the public from unconstitutional and fraudulent judicial pay raises. The verified complaint is posted on our website, www.judgewatch.org, accessible *via* the top panel “Latest News”.

The dispositive exhibit on which the verified complaint rests is our October 27, 2011 Opposition Report to the August 29, 2011 Report of the Commission on Judicial Compensation. Addressed and delivered to Temporary Senate President Skelos, our Opposition Report called upon him to take appropriate steps to protect the People of this State from the Commission’s pay raise recommendations which it showed to be statutorily-violative, unconstitutional, and fraudulent – and which, absent a legislative override, would become law on April 1, 2012.

Senator Saland holds leadership positions under Temporary Senate President Skelos, for which he receives additional pay. This includes as Vice Chair of the Senate Majority Conference – a position also not reflected on Senator Saland’s Senate and campaign websites.

In view of the serious and substantial nature of our October 27, 2011

Opposition Report, Senator Saland -- as Vice Chair of the Senate Majority Conference -- may presumed to have been briefed about it, and especially as counsel to the Senate Majority Conference, Diane Burman, was among those who purportedly reviewed it following our delivery to Temporary Senate President Skelos. Yet, as is quoted at ¶126 of the verified complaint:

126. On March 14, 2012, the Associated Press reported that the judicial salary raises 'appear headed for approval in the upcoming state budget':

'Sen. Stephen Saland and Assemblyman Joseph Lentol, who co-chair the budget conference committee on public protection, said Wednesday the judiciary's spending proposal is mainly intact, including the first raises for 1,300 judges since 1999.

'As far as I'm aware, it hasn't been raised as an issue,' Saland said..." (underlining in the verified complaint).

I respectfully request, Neil, that you challenge Senator Saland to identify whether, in publicly purporting that he was not "aware" that judicial pay raises had "been raised as an issue", he was saying that he was not aware of CJA's Opposition Report. When did Senator Saland become aware of it? And what action has he taken since? Is it his view that CJA's Opposition Report, laying out the constitutional and statutory infirmities of the Commission on Judicial Compensation's Report, indeed, its fraud, could just be ignored, without response, as it was by Temporary Senate President Skelos -- including no response to our follow-up March 2, 2012 letter for his findings of fact and conclusions of law?

What are Senator Saland's own findings of fact and conclusions of law with respect to CJA's Opposition Report, if not previously then now? And what is his answer to the allegations of the March 30, 2012 verified complaint, including to its requested relief? Or is he purporting to be unaware of the lawsuit, in which, as a member of the Senate, he is a defendant?

It is official misconduct and fraud upon the People of this State for any incumbent legislator -- with knowledge of CJA's Opposition Report -- to have allowed the judicial pay raises to take effect on April 1, 2012. Indeed, because of the prohibition against diminution of judicial compensation in Article VI, §25(a) of the State Constitution, those pay raises, costing taxpayers a reported \$27.7 million for this year alone, cannot be repealed by the Legislature -- and will cost taxpayers billions over time. Only a court can strike them down.

Will Senator Saland bring such court action? Or will he support CJA's court action? And what steps will he take to prevent the Commission on Judicial Compensation's further judicial pay raise recommendations from taking effect on April 1, 2013 and April 1, 2014? Will he introduce legislation to override them -- and include a statement therein that the judicial pay raises that took effect on April 1, 2012 are unconstitutional, statutorily-violative, and fraudulent for all the reasons laid out in CJA's Opposition Report and in the

causes of action of our verified complaint?

What is your own position on this important issue? Based on our Opposition Report and verified complaint, what will you do? Voters will be rightfully enthusiastic about your candidacy – and work for your election – if they know that, as their Senator, you will waste no time in recovering and safeguarding their tax dollars, misappropriated for unlawful, fraudulent judicial pay raises, and that you will take other appropriate steps, including securing criminal prosecution of the perpetrators of the judicial pay raise scam and official investigation of the testimonial and documentary evidence presented and proffered by witnesses at the aborted 2009 Senate Judiciary Committee hearings as to the corruption in our state judiciary, involving supervisory and appellate levels, and the Commission on Judicial Conduct and court-controlled attorney disciplinary system.

You may be sure that Senator Saland is regularly contacted by constituents complaining about the corruption and abuses of judges and attorneys. How does he handle these constituent complaints? Doesn't he tell them to file their grievances with the Commission on Judicial Conduct and the attorney disciplinary committees? Why was he absent from the Senate Judiciary Committee's 2009 hearings about these crucial tax-payer supported bodies -- and why has he taken no steps to ensure investigation, findings, and a committee report of the witness testimony and documentation in the three years since?

I look forward to speaking with you directly and more specifically about our nearly 20-years experience with Senator Saland's official misconduct, betraying both his constituents and the People of this State. Needless to say, and as I told Zachariah, we would be pleased to provide you with hard copies of CJA's Opposition Report and the lawsuit papers to assist in your review of their potential to END Senator Saland's political career. Meantime, attached are the Executive Summary to our Opposition Report and the press release about the lawsuit.

Thank you.

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