

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, April 7, 2017 9:16 AM
To: 'jesse.mckinley@nytimes.com'
Subject: WHAT IS YOUR ANSWER? How do you reconcile your reporting on the NYS budget with the NYS Constitution, Article VII, §§4, 5, 6 & Article III, §10?
Attachments: 3-29-17-press-alert-email.pdf; 2-3-17-hand-out-red-alert.pdf

Dear Mr. McKinley,

Please advise, without further delay, why your continued reporting on the NYS budget continues to make NO reference to what the NYS Constitution has to say about enactment of the budget -- & NO reference to CJA's ground-breaking citizen-taxpayer action on the subject.

If you do not give me the courtesy of your explanation by noon, you will leave me no choice but to contact your editors, in which case I would appreciate if you would furnish me with their names and phone numbers

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
914-421-1200
www.judgewatch.org

From: Center for Judicial Accountability, Inc. (CJA) [mailto:elena@judgewatch.org]
Sent: Wednesday, April 5, 2017 4:39 PM
To: 'jesse.mckinley@nytimes.com' jesse.mckinley@nytimes.com

Subject: How do you reconcile your reporting on the NYS budget with the NYS Constitution, Article VII, §§4, 5, 6 & Article III, §10?

Dear Mr. McKinley,

This follows up our brief phone conversation – occasioned by your articles today and over the past several days about the NYS budget, NONE reflecting that it is COMPLETELY “OFF THE CONSTITUTIONAL RAILS” or that on March 29th, our non-partisan, non-profit citizens organization, Center for Judicial Accountability, Inc. (CJA), which has an ongoing citizen-taxpayer action addressed to the state budget, brought an order to show cause to declare the Senate & Assembly “amended” budget bills NULL AND VOID by reason of their violations of Article VII, §§4, 5, 6 and Article III, §10 and because of their fraud. Here’s the link to CJA’s webpage where the signed order to show cause, returnable on April 28th, is posted, together with the supporting papers: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/9-2-16-osc-complaint/3-29-17-osc.htm>

The March 29th press alert I sent you about the order to show cause is attached and below is my follow-up April 2nd e-mail to you, furnishing you with my April 2nd e-mail to Attorney General Schneiderman – a defendant in the citizen-taxpayer action, representing himself and his fellow defendants.

As asked by my April 2nd e-mail to you: Have you read what Article VII, §§4, 5, 6 of the New York State Constitution say about how the state budget is to be enacted? How about Article III, §10 pertaining to transparency of legislative

proceedings? Once again -- now for the third time in a week -- I am attaching these DISPOSITIVE constitutional provisions for your convenience.

I will momentarily forward to you the e-mail I sent to Attorney General Schneiderman this morning. How about getting from him a response?

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
www.judgewatch.org
914-421-1200

From: Center for Judicial Accountability, Inc. (CJA) [<mailto:elena@judgewatch.org>]

Sent: Sunday, April 2, 2017 2:55 PM

To: 'susan_arbetter@wcnyc.org' <susan_arbetter@wcnyc.org>; 'liz.benjamin@twcnews.com' <liz.benjamin@twcnews.com>; 'gblain@nydailynews.com' <gblain@nydailynews.com>; 'cbragg@timesunion.com' <cbragg@timesunion.com>; 'jcampbell1@gannett.com' <jcampbell1@gannett.com>; 'kclukey@politico.com' <kclukey@politico.com>; 'kconley@nypost.com' <kconley@nypost.com>; 'kdewitt@wxii.org' <kdewitt@wxii.org>; 'fud31@aol.com' <fud31@aol.com>; 'ny.tips@chalkbeat.org' <ny.tips@chalkbeat.org>; 'zack.fink@spectrum.com' <zack.fink@spectrum.com>; 'news@cbs6albany.com' <news@cbs6albany.com>; 'mfrench@politico.com' <mfrench@politico.com>; 'michael.gormley@newsday.com' <michael.gormley@newsday.com>; 'mhamilton@timesunion.com' <mhamilton@timesunion.com>; 'khughes@nysnys.com' <khughes@nysnys.com>; 'ahupfl@cityandstate.com' <ahupfl@cityandstate.com>; 'rkarlin@timesunion.com' <rkarlin@timesunion.com>; 'shaneking@statewatch.com' <shaneking@statewatch.com>; 'dklepper@ap.org' <dklepper@ap.org>; 'PLohmann@syracuse.com' <PLohmann@syracuse.com>; 'david@statewatch.com' <david@statewatch.com>; 'klnynews@aol.com' <klnynews@aol.com>; 'jamahoney@cnhi.com' <jamahoney@cnhi.com>; 'billmahoney@politico.com' <billmahoney@politico.com>; 'metro@nytimes.com' <metro@nytimes.com>; 'FMogul@wnyc.org' <FMogul@wnyc.org>; 'nperreault@wutr.tv' <nperreault@wutr.tv>; 'Alyssa_Plock@wcnyc.org' <Alyssa_Plock@wcnyc.org>; 'mikep@statewatch.com' <mikep@statewatch.com>; 'tprecious@buffnews.com' <tprecious@buffnews.com>; 'nick.reisman@twcnews.com' <nick.reisman@twcnews.com>; 'drobinson@bizjournal.com' <drobinson@bizjournal.com>; 'yancey.roy@newsday.com' <yancey.roy@newsday.com>; 'mryan@wmht.org' <mryan@wmht.org>; 'cseiler@timesunion.com' <cseiler@timesunion.com>; 'silberstein.rachel@gmail.com' <silberstein.rachel@gmail.com>; 'gsilverman@bna.com' <gsilverman@bna.com>; 'jspector@gannett.com' <jspector@gannett.com>; 'joelstashenko@aol.com' <joelstashenko@aol.com>; 'jvelasquez@politico.com' <jvelasquez@politico.com>; 'JVielkind@politico.com' <JVielkind@politico.com>; 'mike.vilensky@wsj.com' <mike.vilensky@wsj.com>; 'vivian.yee@nytimes.com' <vivian.yee@nytimes.com>; 'jesse.mckinley@nytimes.com' <jesse.mckinley@nytimes.com>

Subject: BUDGET ALERT: Reconciling your budget reporting with the NYS Constitution -- Citizen-Taxpayer Action: CJA v. Cuomo, et al. #5122-16

TO THE LEGISLATIVE CORRESPONDENTS' ASSOCIATION PRESS –

Below is my e-mail of today's date to Attorney General Schneiderman, whose duty – as New York State's highest law enforcement officer – is to ensure compliance with the New York State Constitution.

Have you read what Article VII, §§4, 5, 6 of the New York State Constitution say about how the state budget is to be enacted? How about Article III, §10 pertaining to transparency of legislative proceedings?

To enable you to do this, I attached a copy of these constitutional provisions to the "BUDGET ALERT" I e-mailed you on March 29th. For your convenience, attached is a copy of that "BUDGET ALERT", alerting you to the Center for Judicial

Accountability's order to show cause to enjoin the Legislature and Governor from further budget actions based upon the Senate and Assembly "amended" budget bills – along with the constitutional provisions.

Do you agree that it is IMPOSSIBLE to reconcile what you have been reporting about how the budget is being enacted with Article VII, §§4, 5, 6 and Article III, §10 of the New York State Constitution?

If so, why does your reporting not reflect that?

Should you not be demanding answers from the "three men in a room" about how they reconcile their behind-closed-doors budget deal-making, including their "amending" of the "amended" budget bills, with Article VII, §§4, 5, 6 and Article III, §10? How about demanding answer from other legislators, starting with those in leadership positions collecting the biggest lulus – as, for instance, Senate Minority Leader Andrea Stewart-Cousins, Assembly Minority Leader Brian Kolb, Independent Democratic Coalition leaders – and the chair and ranking member of the Senate Finance Committee – Senators Catharine Young and Liz Krueger -- and the chair and ranking member of the Assembly Ways and Means Committee – Assemblyman Herman Farrell and Bob Oaks? I believe all are "full-time" legislators.

Most, if not all, will be running for re-election or higher office next year. Likewise, Governor Cuomo, Attorney General Schneiderman, & Comptroller DiNapoli. Shouldn't the press be informing New York voters of the treason to the New York State Constitution that each and every one of their elected constitutional officers in the state's legislature and executive branch is NOW committing with respect to the \$150-billion state budget?

As always, I am available to answer questions, be interviewed, and to assist you to the max. As you know, CJA's website, www.judgewatch.org, posts the substantiating evidentiary proof. The direct link to CJA's March 29th order to show cause for a preliminary injunction – which Justice Hartman made returnable on April 28th – is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/9-2-16-osc-complaint/3-29-17-osc.htm>.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
914-421-1200
www.judgewatch.org

From: Center for Judicial Accountability, Inc. (CJA) [<mailto:elena@judgewatch.org>]

Sent: Sunday, April 2, 2017 11:16 AM

To: 'Eric.Schneiderman@ag.ny.gov' <Eric.Schneiderman@ag.ny.gov>

Cc: 'Jason.Brown@ag.ny.gov' <Jason.Brown@ag.ny.gov>; 'Janet.Sabel@ag.ny.gov' <Janet.Sabel@ag.ny.gov>; 'Kent.Stauffer@ag.ny.gov' <Kent.Stauffer@ag.ny.gov>; 'Meg Levine' <Meg.Levine@ag.ny.gov>; 'Jeffrey Dvorin' <Jeffrey.Dvorin@ag.ny.gov>; 'Helena Lynch' <Helena.Lynch@ag.ny.gov>; 'Adrienne Kerwin' <Adrienne.Kerwin@ag.ny.gov>; 'Hartman Chambers' <hartmanchambers@nycourts.gov>; 'Joanne Locke' <jlocke@nycourts.gov>

Subject: NYS BUDGET & THE AG's DUTY TO IMMEDIATELY SECURE A TRO, etc.: Citizen-Taxpayer Action: CJA v. Cuomo, et al. #5122-16

TO: Attorney General Eric Schneiderman

How long does it take you to read Article III, §10 and Article VII, §§4, 5, 6 of the New York State Constitution and recognize your duty to protect the People of the State of New York from the brazen repudiation of these safeguarding

constitutional provisions by the “three men in a room”, aided and abetted by all other legislative leaders and rank-and-file, in their enacting of the state budget for fiscal year 2017-2018?

And how long does it take you to read the Court of Appeals’ consolidated decision in *Pataki v. Assembly & Senate* and in *Silver v. Pataki*, 4 NY3d 75 (2004), interpreting Article VII, 4? Are you not familiar with that decision from your years in the Legislature, including in 2004, when it was rendered? How about the Court of Appeals’ decision in *New York State Bankers Association v. Wetzler*, 81 NY2d 98 (1993), also interpreting Article VII, §4. Have you not read it? Is there anything unclear about what it says?

By this e-mail, demand is made, again, that you IMMEDIATELY enforce Article III, §10 and Article VII, §§4, 5, 6 of the New York State Constitution – and secure the TRO sought by plaintiffs’ March 29th order to show cause, whether before Justice Hartman or before a fair and impartial judge, which she is not.

Additionally, demand is made that you IMMEDIATELY put your “three men in a room” clients on notice that should they print their behind-closed-doors budget bills, “amending” the Senate and Assembly “amended” budget bills, such would be, in the words of the citizen-taxpayer action statute, “a wrongful expenditure, misappropriation, misapplication, ... illegal or unconstitutional disbursement of state funds or state property” (State Finance Law §123-b) – and they will be held personally liable for the costs of printing, distribution, and all consequential damages resulting therefrom.

Suffice to here note – and its applicability extends to all defendants in plaintiffs’ citizen-taxpayer action, including yourself, that “intentional wrongdoing”, as at bar, is not shielded from accountability (See Public Officers Law §17, entitled “Defense and indemnification of state officers and employees”, subdivisions 3(a) and (c).

I have yet to hear from you – or from your high-ranking staff – as to the outcome of your personal review of the record of plaintiffs’ citizen-taxpayer action, beginning with the March 29th oral argument of plaintiffs’ order to show cause for a preliminary injunction, with TRO – and plaintiffs’ *sub judice* February 15th order to show cause to disqualify Justice Hartman for actual bias, with its Exhibit U analysis of her December 21, 2016 decision. As you know, the record is conveniently posted on CJA’s website, www.judgewatch.org, accessible from the prominent homepage link “CJA’s Citizen-Taxpayer Actions to End NYS’ Corrupt Budget ‘Process’ and Unconstitutional ‘Three Men in a Room’ Governance”. The direct link to CJA’s webpage for the March 29th order to show cause for preliminary injunction, with TRO, is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/9-2-16-osc-complaint/3-29-17-osc.htm>. For your further convenience, my March 31st e-mail to you and your high-ranking staff, entitled “IMMEDIATE OVERSIGHT & ACTION REQUIRED”, to which I am awaiting response, is below, as well as attached hereto – notwithstanding it is accessible from that webpage. Likewise, attached are my March 30th e-mails to Justice Hartman, to Deputy Attorney General Meg Levine, and to Assistant Attorney General Lynch, to which, also, I am awaiting response.

Needless to say, if you – New York State’s highest law enforcement officer -- are unwilling to rise above your multitudinous conflicts of interest and enforce the New York State Constitution against those who are openly and brazenly violating it, demand is made, again, that you take IMMEDIATE steps for appointment of independent counsel for such purpose.

Thank you.

Elena Sassower, unrepresented plaintiff

on her own behalf & on behalf of the People of the State of New York & the Public Interest

914-421-1200

From: Center for Judicial Accountability, Inc. (CJA) [<mailto:elena@judgewatch.org>]

Sent: Friday, March 31, 2017 3:02 PM

To: 'Eric.Schneiderman@ag.ny.gov' <Eric.Schneiderman@ag.ny.gov>; 'Jason.Brown@ag.ny.gov'

<Jason.Brown@ag.ny.gov>; 'Janet.Sabel@ag.ny.gov' <Janet.Sabel@ag.ny.gov>; 'Kent.Stauffer@ag.ny.gov' <Kent.Stauffer@ag.ny.gov>
Cc: 'Meg Levine' <Meg.Levine@ag.ny.gov>; 'Jeffrey Dvorin' <Jeffrey.Dvorin@ag.ny.gov>; 'Helena Lynch' <Helena.Lynch@ag.ny.gov>; 'Adrienne Kerwin' <Adrienne.Kerwin@ag.ny.gov>; 'Hartman Chambers' <hartmanchambers@nycourts.gov>; 'Joanne Locke' <jlocke@nycourts.gov>

Subject: IMMEDIATE OVERSIGHT & ACTION REQUIRED: Citizen-Taxpayer Action: CJA v. Cuomo, et al. #5122-16

TO: Attorney General Eric Schneiderman
Chief Deputy Attorney General Jason Brown
Chief Deputy Attorney General Janet Sabel
Executive Deputy Attorney General for State Counsel Kent Stauffer

This follows up two voice mail messages I left this morning for Executive Deputy Attorney General for State Counsel Stauffer -- and the message I left with Yolanda, a secretary in the Attorney General's executive offices, for Chief Deputy Attorneys General Sabel and Brown -- and for Attorney General Schneiderman.

Attached is my self-explanatory e-mail, sent yesterday afternoon, to Deputy Attorney General Meg Levine -- to which, like my predecessor March 28th e-mail to her, I have received NO response. It pertains to the citizen-taxpayer action, *CJA v. Cuomo, et al.* (Albany Co. #5122-16), in which Attorney General Schneiderman is a named defendant, sued for corruption with respect to the state budget for fiscal year 2016-2017. The lawsuit, the successor of a prior citizen-taxpayer action, *CJA v. Cuomo, et al.* (Albany Co. #1788-14), pertaining to the state budgets for fiscal years 2014-2015 and 2015-2016, to which Attorney General Schneiderman was also a named defendant, is in Supreme Court/Albany County, before Acting Supreme Court Justice Denise Hartman. Presumably, you know Justice Hartman, as for 30 years, until May 2015, she had worked in the Attorney General's office -- in other words, under then Attorney-General Cuomo and thereafter, under Attorney General Schneiderman.

The subject line to my yesterday's e-mail to Deputy Attorney General Levine read:

"Request that the AG rise above his conflicts of interest & do his duty to secure the TRO to which plaintiffs were entitled yesterday, as a matter of law".

The referred-to "yesterday" was Wednesday March 29th -- and the referred-to TRO was to enjoin defendants from taking further budget action based on the legislative defendants' "amended" budget bills for fiscal year 2017-2018, which were not "amended" in fact -- and which not only procedurally violate Article III, §10 of the New York State Constitution, but substantively violate Article VII, §§4, 5, and 6. In pertinent part, my yesterday's e-mail to Deputy Attorney General Levine requested that you:

"personally review the record of these citizen-taxpayer actions, beginning with what took place [on March 29th at the oral argument before Justice Hartman], so that the Attorney General -- notwithstanding he is a defendant -- can rise above his conflicts-of-interest and do his duty to secure the TRO which plaintiffs sought, and were entitled to [on March 29th]-- thwarted by the misconduct of the Attorney General's Office, in tandem with its former colleague, the now Acting Justice Hartman."

For your convenience, the Center for Judicial Accountability's website, www.judgewatch.org, posts the record of both citizen-taxpayer actions, accessible *via* the prominent homepage link: "CJA's Citizen-Taxpayer Actions to END NYS' Corrupt Budget 'Process' and Unconstitutional 'Three Men in a Room' Governance". Here's the direct link to the webpage for plaintiffs' March 29th order to show cause for a preliminary injunction, with TRO: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/9-2-16-osc-complaint/3-29-17-osc.htm>. To further assist you, I have posted on that webpage a link to a webpage of correspondence pertaining to the order to show cause -- from which you can read the entire e-mail exchange on which my yesterday's e-mail to

Deputy Attorney General Levine rests, as well as such subsequent correspondence as Assistant Attorney General Helena Lynch's yesterday's letter to Justice Hartman, retracting her false statement at the March 29th oral argument that the legislative defendants' "amended" bills were "internal documents". In that connection, attached is my yesterday's e-mail response to AAG Lynch's retraction, as it summarizes her other deceits at the March 29th oral argument for which retraction is in order – giving rise to the Attorney General's duty to secure the issuance of a TRO, immediately.

That enactment of the state budget by the legislative defendants and defendant Cuomo openly and flagrantly violates Article III, §10 and Article VII, §§4, 5, 6 of New York's Constitution is reflected by yesterday's article in the Gotham Gazette "*The 'Three Men in a Room' and Millions Outside*" <http://www.gothamgazette.com/state/6842-the-three-men-in-a-room-and-millions-outside>. This abomination will NOT change unless forced *via* judicial declarations of unconstitutionality and this is what plaintiffs' March 29th order to show cause with a preliminary injunction and TRO is designed to most efficiently accomplish.

The Attorney General has not only an historic opportunity to intervene in plaintiffs' monumental citizen-taxpayer action – but the obligation to do so. As TIME IS OF THE ESSENCE, please let me hear from you, as soon as possible, as to the results of your review of the record. I am available throughout the weekend.

Thank you.

Elena Sassower, unrepresented plaintiff

on behalf of herself, the State of New York, and the Public Interest.

914-421-1200