

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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## BY HAND & E-MAIL

January 3, 2018

TO: Westchester County Executive George Latimer

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

RE: Your Duty:

- (1) to Rectify Westchester County's Violation of Chapter 192 of the Westchester County Charter, Mandating a Seven-Member County Board of Ethics Enforcing the County Code of Ethics;
- (2) to Remove the Larcenous District Attorney Salary Increases from the Westchester County Budget – and Assume Leadership, Consistent Therewith.

On this, the second business day of your new job as Westchester County Executive, when you are up in Albany, being lauded by your former New York State Senate colleagues, among others, be advised that for many years now Westchester County has been in violation of Chapter 192 of the Westchester County Charter, which mandates a functioning county Board of Ethics, with seven members “appointed by the County Executive subject to the confirmation of the County Board” (§192.11).

Indeed, the Westchester Board of Ethics has no current membership. At last count, there were only six members: one with a term that expired three years ago, on December 31, 2014 (Josh Mandell); one with a term that expired two years ago, on December 31, 2015 (Dennis Kremer, its chair); one with a term that expired one year ago, on December 31, 2016 (Rene Atayan); and three with terms that expired three days ago, on December 31, 2017 (Joseph Crotty, Walter Malystik, Jr., and Michael Amodio).

This is what I gleaned from a December 29, 2017 response to a November 22, 2017 FOIL request I filed with the Board of Legislators, a copy of which I furnished to Robert Meehan, county attorney under County Executive Astorino. The FOIL request was based on a September 16, 2014 news release “*BOL Appointments Committee Demands List of County Ethics Board Members*” – which falsely made it appear that it was the Astorino administration that was to blame for a Board of Ethics that plainly was not operating in any cognizable fashion, if at all. In fact, as revealed by the VIDEO of the September 15, 2014 meeting of the appointments committee that I subsequently discovered, it

was the appointments committee itself that was to blame for disabling the Board of Ethics by, inexplicably, not holding hearings to confirm County Executive Astorino's appointees to the Board of Ethics and not maintaining the most basic records, as, for instance, the status of each of its seven member slots.

I urge you to watch the VIDEO of the September 15, 2014 appointments committee meeting, because, as disgraceful and shocking as it is, even more disgraceful and shocking is that, apparently, there has been NO responsible action to rectify the situation. This includes by the principal participants at the September 15, 2014 appointments committee meeting: Legislator Ben Boykin, its then chair, who is reportedly in line to become chair of the Board of Legislators, and Legislator Ken Jenkins, who, in exchange for having run a sham primary race against you for county executive on the Democratic line, you have rewarded by making deputy county executive.

Of course, both the county executive and Board of Legislators have a shared interest in the non-functioning of the Board of Ethics. Likewise, the county attorney, who, pursuant to §158.01 of the Westchester County Charter, is "appointed by the County Executive with the approval of the County Board". All are under the Board of Ethics' jurisdiction – whose function, in the first instance, is to enforce the Westchester County Code of Ethics, the "Purpose" of which is to ensure "the highest degree of conduct on the part of county officers and employees." (Westchester County Code, Part XII, §883.01).

Pursuant to §158.11(2) of the Westchester County Charter, the county attorney is "legal advisor to the County Board and to each and every board, body, commission or officer of the County of Westchester". As evident from the Board of Ethics' virtual non-existence, so dramatically revealed by the VIDEO of the appointments committee's September 15, 2014 meeting and, prior thereto, by the VIDEO of its July 14, 2014 meeting, former County Attorney Meehan failed in his duty to advise County Executive Astorino and the Board of Legislators as to their respective obligations concerning the Board of Ethics – and to advise the Board of Ethics that it was not legally constituted and not functioning in a manner consistent with its purpose.

This is not the only respect in which former County Attorney Meehan failed in his duties. He also failed with respect to the NOTICES I furnished him, in July and September 2016, that the Westchester county budget contained district attorney salary increases arising from two state commission reports that are statutorily-violative, fraudulent, and unconstitutional – indeed "false instruments" violative of a succession of penal laws – and that the county's duty was to require its district attorney to respond to the *readily-verifiable* EVIDENCE of this with findings of fact and conclusions of law, and, absent same, to require its county attorney to furnish his own findings of facts and conclusions of law so that the county executive, budget director, and Board of Legislators could act consist therewith to remove the increases from the county budget and/or seek the voiding of the underlying commission reports.

You are already fully familiar with the unlawfulness of these two state commission reports – as I furnished you with all information and the *prima facie* documentary EVIDENCE about them,

repeatedly, throughout 4-1/2-years, beginning on March 8, 2013 – when, as state senator, I met with you in your district office. This is detailed by my August 10, 2017 OPEN LETTER concerning your candidacy for county executive, that I sent to you, to then Legislator Jenkins, and to then County Executive Astorino and which called upon the political parties that had given you their party lines to withdraw them based upon your willful and deliberate nonfeasance, as a state senator, with respect to these two commission reports, covering up and perpetuating a corrupt status quo, engaged in larceny of taxpayer monies and other corruption disabling government.

On November 13, 2017, as county executive-elect, you addressed the Board of Legislators at its first meeting after the election. I was present, in the chamber, having minutes earlier spoken in the “public comment” portion of the meeting about the larcenous district attorney salary increases within the county budget that County Executive Astorino had released to the Board of Legislators that very day. Upon your exit, I spoke with you briefly. Referring to the August 10, 2017 OPEN LETTER, I stated it was “not over” – and handed you a copy of my November 9, 2017 e-mail, with enclosures, distributed to the 17 members of the Board of Legislators and to which I referred in my “public comment”. Those enclosures were the July and September 2016 NOTICES to County Attorney Meehan. I stated to you that you should be sure to tell whoever you would be appointing as your county attorney that he would have to confront the district attorney salary increase issue with the findings of fact and conclusions of law that were incumbent on you to have made or to have secured over the many years in which you were senator.

In the event you did not so-inform John Nonna, Esq., who, with Legislator Jenkins, headed your transition team, and who you appointed as your county attorney, this is to put Mr. Nonna on NOTICE of his duty to make or secure findings of fact and conclusions of law with respect to the two state commission reports on which the Westchester district attorney salary increases are based – a duty reinforced by the willful and deliberate nonfeasance of the 17 members of the Board of Legislators, spanning from their November 13, 2017 meeting to their December 10, 2017 last meeting, refusing to verify that the salary increases are larcenous, including by requiring County Attorney Meehan to supply them with his findings of fact and conclusions of law or requiring same from District Attorney Anthony Scarpino, the direct beneficiary of the salary increases. And explaining this nonfeasance – indeed the ONLY explanation for it – is the county legislators’ knowledge that findings of fact and conclusions of law would expose your criminal nonfeasance, as state senator, in colluding in these two corrupt commission reports – as likewise the criminal nonfeasance and collusion of a “who’s who” in government and politics, with whom county legislators also have relationships and reap political and other benefits, as, for instance:

- the other legislators of Westchester’s Albany delegation, the most powerful being Senate Minority Leader Andrea Stewart-Cousins, who, like yourself, was a former member of the Board of Legislators, and Senate Majority Coalition Leader Jeffrey Klein;
- New York’s most powerful executive branch officer, Westchester-resident Governor Andrew Cuomo; and

- New York's most powerful judicial branch officer – and herself a direct beneficiary of the two commission reports – the former Westchester district attorney, Janet DiFiore, who Governor Cuomo appointed, and the Senate confirmed, as New York's Chief Judge.

As you know, you and they are all defendants in a citizen-taxpayer action, sued for corruption, whose record establishes plaintiffs' entitlement to summary judgment on each of its ten causes of action – including as to the statutory violations, fraud, and unconstitutionality of the two commission reports – the political ramifications of which reach back to the 2014 elections when County Executive Astorino and Republican and Conservative party leadership had the opportunity to defeat Governor Cuomo and bring honest, accountable government to this state.

The Westchester Code of Ethics proscribes conflicts of interest, which it defines as “a direct or indirect pecuniary or material benefit accruing to a county officer...whether as the result of a contract with the county or otherwise...” (Westchester County Code §883.11(f)), stating:

*“Disclosure of interest in legislation or county contracts.* To the extent that they know thereof, any officer or employee of the County of Westchester...who has any interest in any legislation before the County Board or who gives any opinion to such board upon such legislation...shall publicly disclose on the official record and to an immediate supervisor, in writing, the nature and extent of such interest.” (Westchester County Code §883.21(e)).

As to the sorry state of the Board of Ethics, charged with enforcing this provision of the Code of Ethics, I saw it, for myself, on December 8, 2017, at its meeting in the county attorney's suite of offices. Of its four “members” present – Kremer, Matysik, Atayan, and Mandell – the only “member” whose term had NOT expired, long before, was Matysik. As for the sole matter for which they were apparently convened, it was for approving a resolution to retain the services of the same “independent consultant”<sup>1</sup> whose retention and services had been questioned by Legislators Boykin and Jenkins at the September 15, 2014 Appointments Committee meeting.

To the four “members” at the December 8, 2017 meeting – and to the assistant county attorney under whose aegis the meeting was held – I orally described the conflict-of-interest misconduct complaint I wished to file – and furnished each, in support, with a copy of the summarizing written statement about the Board of Legislators' conflicts of interest that I had read at its December 6, 2017 hearing on the county budget, which had stated, in pertinent part:

“There is nothing I can say here that the 17 county legislators – 6 of whom are lawyers – do not already know. They know, for example, that, by contrast to the county executive's \$160,000 salary, the district attorney salary increases that are part of the county budget have kicked up the district attorney's salary to \$195,000 and

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<sup>1</sup> Westchester Code of Ethics, §883.91: “Independent Consultant”.

will add on another \$10,000 in 2018. They know that these D.A. salary increases rest on two commission reports that not only violate the commission statutes pursuant to which they purport to be rendered, but are fraudulent. They know this because I have stated it to them – and have backed it up by providing them with the documentary EVIDENCE, from which this is *readily-verifiable*. And they know who bears responsibility for these commission reports – the cost of which, since 2012, is about \$300 million, stolen from Westchester taxpayers and taxpayers throughout the state. The responsibility lies with their friends and political buddies in Albany – the governor, comptroller, attorney general, chief judge, and the 213 members of the legislature – all of whom, in a scheme to secure their own salary increases – have REFUSED to discharge ANY oversight of the two commission reports, in face of the same EVIDENCE that I provided to them, repeatedly, since 2011.

What is the responsibility of the Board of Legislators in a situation such as this? To date, it has not made findings of fact and conclusions of law with respect to the EVIDENCE of fraud and illegality affecting the D.A. budget item. Nor has it directed the county attorney or the district attorney to furnish it with findings of fact and conclusions of law. The reason? Because findings of fact and conclusions of law would expose the criminal nonfeasance of all its Albany friends and political buddies – including, of course, the Westchester delegation of state senators and assembly members with whom it has personal, professional, and political relationships. That is why, two days ago, in my public comment at the Board of Legislators' last meeting, I asked the Board of Legislators to endorse the request I made in a letter to the 14 members of the Westchester Albany delegation that they help the conflict-ridden Board of Legislators by furnishing it with their own findings of fact and conclusions of law with respect to the EVIDENCE. Such endorsement is reasonable and appropriate – and, by my appearance here tonight, I ask that my request for same be added to the agenda of your upcoming committee and Board meetings for discussion and vote.” (December 6, 2017 written statement, italics, capitalization, and underlining in the original.)

The written statement attached the referred-to December 4, 2017 letter to the 14 legislators of Westchester's Albany delegation, yourself among them, and with it my August 10, 2017 OPEN LETTER about you, therein identified (at p. 3) as a “must-read” because, to a greater or lesser extent, it could have been written about each legislator of Westchester's Albany delegation.

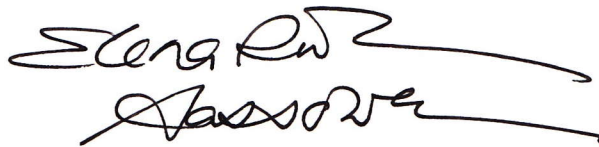
As you already know from the December 4, 2017 letter, CJA's website, [www.judgewatch.com](http://www.judgewatch.com), contains a webpage entitled “The Larcenous D.A. Salary Increases, the Westchester County Budget – & the Westchester County Board of Legislators”, accessible from the top panel “Latest News”. On it is everything that County Attorney Nonna needs for verifying that I have a serious and substantial conflict-of-interest misconduct complaint against the Board of Legislators and District Attorney Scarpino, among others, as to which your duty, in tandem with the Board of

Legislators, is to ensure a lawfully constituted and functioning Board of Ethics. Indeed, for the convenience of all, I have created a further webpage for this letter, from which everything is even more conveniently accessible. The direct link is here: <http://www.judgewatch.org/web-pages/elections/2017/jan-3-2018-ltr.htm>.

As Westchester's new county executive, it is your duty to forthwith make appointments to the actually member-less Westchester Board of Ethics – as likewise to introduce legislation removing from the Westchester county budget the district attorney salary increases, arising from the two state commission reports whose unlawfulness is established, *prima facie*, by the documentary EVIDENCE that my December 4, 2017 letter most recently highlighted for you and for your former state Senate and Assembly colleagues with whom you are today consorting.

As I live just blocks away from your county executive office, it would not be inconvenient for me to meet with you to discuss this situation – and your leadership role in rectifying the “dysfunctions” of Albany whose consequences are so deleterious to the People of Westchester and the integrity of the county budget. I would be most pleased to do so.

Thank you.

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

cc: The 6 “members” of the Westchester County Board of Ethics  
County Attorney John Nonna  
Deputy County Executive Ken Jenkins  
Westchester County District Attorney Anthony Scarpino  
The 13 Senate and Assembly members of Westchester County’s Albany delegation  
The 17 members of Westchester County’s Board of Legislators (current & former)  
Former County Executive Rob Astorino  
Former County Attorney Robert Meehan