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A Tale of Four Complaints – & Now Five

Testimony before the Commission on Ethics & Lobbying in Government (COELIG) November 13, 2024 – New York City Bar Association

I am Elena Sassower, director of the non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA). Our website is www.judgewatch.org, and from its left side panel "Testimony", you can find a link for this testimony¹ and to the open-and-shut, *prima facie* EVIDENCE substantiating it.

At last year's public hearing, on March 29, 2023, I stated that based on your first 6-1/2 months, I would be filing a complaint against you, to you, for your "substantial neglect of duty" and "misconduct in office"² arising from your willful violations of Public Officers Law §74, proscribing conflicts of interest that is your duty to enforce as to others,³ and of Executive Law §94.10(b), explicitly mandating that you each disclose personal, professional, and financial conflicts of interest with respect to complaints – and recuse yourselves or be recused by vote of your fellow commissioners.⁴

I deferred actually filing such complaint, so as to give you the opportunity to take steps to rectify the violations that my testimony summarized and evidentiarily-established pertaining to the eight complaints I filed with COELIG, by a single complaint-letter, on its "DAY 1" -- July 8, 2022. All involved the "false instrument" reports by which New York's 4 statewide-elected executive officers and all its 213 state legislators have procured unlawful and unconstitutional pay raises for themselves – and for judges and district attorneys – embedded in a state budget that they have driven "OFF THE CONSTITUTIONAL RAILS" to steal more taxpayer monies and subvert constitutional, lawful state governance through massive insertions of non-fiscal/non-revenue-producing policy.

As to this July 8, 2022 complaint, I stated:

"Surely no complaint that the Commission thereafter received remotely approaches, in magnitude and breadth, any of these eight complaints, let alone all of them."
(underlining in the original).

I identified your serious and substantial conflicts-of-interest pertaining thereto, the least being that your COELIG *per diems* are tied to Supreme Court justice salaries that the "false instrument" reports had inflated by \$80,000 and that, by an unsigned November 17, 2022 letter, your Investigations Division purported, in violation of Executive Law §94.10(f), that you had "voted to close" the July 8, 2022 complaint and its October 6, 2022 supplement. I concluded with a procedural suggestion

that your letters disposing of complaints indicate 30 days in which a complainant could seek reconsideration, similar to what Appellate Division rules provide for its attorney grievance committees⁵. The last sentence of my testimony expressly requested such reconsideration of the July 8, 2022 complaint.

Instead of confronting my testimony with findings of fact and conclusions of law as to the legitimacy of your November 17, 2022 letter, and about your handling of my FOIL requests pertaining to the July 8, 2022 complaint, about which I testified, and about the corruption of the process by which you were appointed commissioners, involving the so-called Independent Review Committee of 15 law school deans, about which I also testified, you ignored it all. This enabled you to issue, [on August 28, 2023](#), a fraudulent [Annual Report for 2022](#) extolling the success of COELIG and the Independent Review Committee. A week and a half later, at September 6, 2023 special meetings of your then Legal Committee and Ethics Committee, you dumped two recommendations you purported I had made at the March 29, 2023 hearing. As for my recommendation for a reconsideration procedure for complaints – which, in fact, was my ONLY express recommendation – the deceits about it by COELIG staff, including that it would require an amendment to [Executive Law §94](#), resulted in “push-back” from several Legal Committee members and a vote tabling the recommendation to a subsequent meeting so that staff could provide further guidance on the subject.

On October 2, 2023 – as an explicit TEST of the staff deceit that an unofficial reconsideration procedure exists inasmuch as a complainant can resubmit his/her complaint with additional information or file a new complaint – I did both. [I filed a new complaint – the complaint against you, your executive director, your general counsel, and high-ranking staff that I had announced I would be filing at the March 29, 2023 hearing](#). It was now updated and supplemented by an analysis of your fraudulent 2022 Annual Report and of what had taken place at your September 6, 2023 meetings – and embodied separate relief, denominated as:

“Officially TESTING the Commission’s unofficial reconsideration/renewal remedy by resubmitting CJA’s July 8, 2022 complaint and October 6, 2022 supplement based on the within evidence that the November 17, 2022 staff letter that the Commission ‘voted to close’ it is indefensible.”

Your response? You excluded me from your rigged [November 1, 2023 “roundtable” discussion](#) of recommendations from the March 29, 2023 hearing that you were adopting and embodying into your 2024 legislative agenda – and ignored, without acknowledgment, the October 2, 2023 complaint.

[Executive Law §94.10\(e\)](#) expressly states: “The commission shall notify the complainant...that the commission has received their complaint”. I pointed this out by a [December 5, 2023 e-mail](#) to you, further asking:

“What is the status of the October 2, 2023 complaint – and, additionally, the status of its request for reconsideration of CJA’s July 8, 2022 sworn complaint and its October 6, 2022 sworn supplement?”

Please advise – and also furnish, pursuant to FOIL, the Commission’s written procedures/manual for receipt, docketing, acknowledgment, preliminary review, investigation of complaints, notification of disposition to complainants – and reconsideration.”

You responded only to the FOIL request, by a [January 9th e-mail](#) stating that “written procedures...are in preparation but, at this time, are not yet final”.

Twenty days later, [on January 29, 2024, I filed with you a third complaint](#) – this against the seven members of the (3rd) Commission on Legislative, Judicial and Executive Compensation for their “false instrument” report that would raise judicial salaries, effective April 1, 2024. In other words, it was a complaint that would directly impact raises to your *per diems*. Indeed, more than that, it would crack open the whole mass of conflict-of-interest-driven corruption involving “false instrument” report pay raises and the budget that was the subject of CJA’s eight-in-one July 8, 2022 complaint.

Four months later, in the absence of your acknowledgment of this complaint, I sent you a [May 30th e-mail](#), asking as to its status and the number you had assigned to it. I reiterated this, a week later, by a [June 5th e-mail](#), further stating that I still had no acknowledgment of the October 2, 2023 complaint. I asked whether you had not, by then, finalized your “written procedures/manual for receipt, docketing, acknowledgment, preliminary review, investigation of complaints, notification of disposition to complainants – and reconsideration.”

Another four months later, I would ask this, yet again, by an [October 7th e-mail](#), requesting the numbers you had assigned to these two complaints – and what their status was.

A full month elapsed before you responded, on November 7th. By then, I had filed with you [a fourth complaint, on October 29, 2024](#), against the 4 statewide-elected executive officers and all 213 state legislators for benefitting themselves by colluding in the (3rd) Commission on Legislative, Judicial and Executive Compensation’s “false instrument” report – the subject of CJA’s January 29, 2024 complaint that you had been “sitting on”. I had also, by then, sent you a [November 4th e-mail](#) for the number you had assigned to the October 29th complaint.⁶

[As for your November 7th response](#), you asserted that the status of CJA’s October 2, 2023 complaint is “closed” and that the number you had assigned to it was 22-099. As 22-099 is the number you assigned to the July 8, 2022 complaint, you clearly assigned NO number to the October 2, 2023 complaint against yourselves, which you did NOT determine.

As for the status of CJA’s January 29, 2024 complaint, you asserted that it is “open” and that the number you had assigned to it was 24-141. Evident from this number is that it was NOT assigned until late October or early November – and possibly only in response to the October 29, 2024 complaint.

You also furnished a pdf entitled “[Internal Controls and Procedures](#)”, identifying that it had been

updated on October 17, 2024, with a single footnote about JCOPE which is false.⁷ Assuming comparable “Internal Controls and Procedures” existed, in whole or in part, over the past two-plus years of COELIG’s existence – and this was the subject of my repeated FOIL requests, beginning [July 26, 2022](#) and culminating with my [February 7, 2023 FOIL appeal](#), identifying that they should be existing – COELIG staff, with your knowledge, flagrantly violated same with respect to CJA’s complaints.

COELIG’s most important function is appropriately addressing complaints – and, as chronicled by [CJA’s October 2, 2023 complaint](#), with its painstaking 46-page, single-spaced analysis of your 2022 Annual Report, of your monthly operations reports, of the videos of your meetings, and of Part 941.2 and 941.3 of your rules, obfuscating your duty under [Executive Law §94](#), you have been failing in that function, flagrantly, from the outset, while, simultaneously, flagrantly violating conflict-of-interest mandates both with respect to yourselves and staff – and collecting unlawful hourly *per diems* that now total well over a quarter of a million dollars.

Indeed, as a result of your self-serving and deliberate nonfeasance and cover-up of the October 2, 2023 complaint against yourselves and COELIG staff, ALL the frauds of your 2022 Annual Report are essentially replicated by your [2023 Annual Report](#) – and, with respect to your handling of complaints, even more brazenly. For instance, although the 2023 Annual Report, states (at p. 73) that COELIG “received and processed 156 tips, complaints, referrals, and reports in 2023”, this 156 number is NOT reflected by the chart (at p. 82) purporting to list “all matters incepted in 2023”. Rather, the chart ends at #23-118, thus signifying only 118 “matters incepted...in 2023” – and, if that discrepancy is not startling enough, 68 numbers are missing within the sequence leading up to #23-118!

As [CJA’s October 2, 2023 complaint](#) is DISPOSITIVE of the situation then, now, and of what must happen, going forward – including with respect to the lawsuits [CJA v. JCOPE, et al.](#) and [Cuomo v. COELIG \(APL-2024-00076\)](#), now both at the Court of Appeals – my recommendation, in closing, is that you do your duty by confronting, with findings of facts and conclusions of law, its “specific and credible evidence” of your conflict-of-interest-driven “substantial neglect of duty” and “misconduct in office” – and its continuation to the present, as herein summarized. To assist you in doing so, I am embodying this testimony in now [a second complaint against you, your executive director, your general counsel, and other high-ranking staff – to be processed consistent with your current “Internal Controls and Procedures”](#). To further assist, my [March 29, 2023 testimony](#) will be annexed to the complaint.

Thank you.

ENDNOTES

¹ The direct link to CJA’s webpage for this testimony is <https://www.judgewatch.org/web-pages/searching-nys/celg/testimony-11-13-24.htm>, hyperlinking to [CJA’s MENU webpage for COELIG](#), with hyperlinks to CJA’s complaints to COELIG and FOIL requests.

² Executive Law §94.4(c) identifies “substantial neglect of duty” and “misconduct in office” as grounds upon which “Members of the commission may be removed by majority vote of the commission.”

³ This Commission, with three members appointed by the governor, is a “state agency”, pursuant to Public Officers Law §74, and the commissioners are, presumably, its “officers” – and reinforcing this is Executive Law §94.3(l) in specifying that “The independent review committee shall neither be public officers nor be subject to the requirements of the public officers law.” No parallel provision appears in Executive Law §94.4 as to commissioners. Certainly, the Commission’s paid staff is within the purview of Public Officers Law §74.

⁴ Executive Law §94.10(b) reads:

“Upon the receipt of a complaint, referral, or the commencement of an investigation, members of the commission shall disclose to the commission any personal, professional, financial, or other direct or indirect relationships a member of the commission may have with a complainant or respondent. If any commissioner determines a conflict of interest may exist, the commissioner shall, in writing, notify the other members of the commission setting forth the possible conflict of interest. The commissioner may recuse themselves from all subsequent involvement in the consideration and determination of the matter. If, after the disclosure, the commissioner does not recuse themselves from the matter, the commission, by a majority vote finding that the disclosed information creates a substantial conflict of interest, shall remove the conflicted commissioner from all subsequent involvement in the consideration and determination of the matter, provided the reason for the decision is clearly stated in the determination of the commission.”

⁵ [Appellate Division Rules of Procedure 1240.7\(e\)\(3\)](#) reads:

“Review of Dismissal or Declination to Investigate. Within 30 days of the issuance of notice to a complainant of a Chief Attorney’s decision declining to investigate a complaint, or of a Committee’s dismissal of a complaint, the complainant may submit a written request for reconsideration to the chair of the Committee. Oral argument of the request shall not be permitted. The Chair shall have the discretion to grant or deny reconsideration, or refer the request to the full Committee, or a subcommittee thereof, for whatever action it deems appropriate.”

⁶ This was reiterated by my [November 8, 2024 e-mail to you](#), to which, as with my November 4, 2024 e-mail, there has been no response.

⁷ The footnote in “[Internal Controls and Procedures](#)” (at p. 4) annotates the definition of “Open” as “matters where a 15-day letter has been sent”. It states:

“For matters ‘opened’ under JCOPE, JCOPE voted to open formal investigations.”

This is false – and replicates the falsehood that appeared in the proposed revisions to COELIG’s rules – Part 941 – foisted on commissioners in 2022 and 2023 by then interim Executive Director Berland, and which the commissioners adopted, virtually without change. This is detailed at pages 23-30 of CJA’s October 2, 2023 complaint, under the title heading “Your Conflict-of-Interest-Driven Subversion of Executive Law §94.10 by Your 19 NYCRR §§941.2 and 941.3”. Footnote 11 thereto (at p. 27) gives the specifics – and states:

“JCOPE Executive Law §94 did NOT require a Commission vote to initiate an ‘investigation’ – as no vote was required to send out 15-day notice/letters, which, under COELIG Executive Law §94, is what signifies, if not constitutes, ‘investigation’.” (capitalization in the original).

The referred-to JCOPE Executive Law §94 is [§94.13\(a\) entitled “Investigations”](#).