

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>
Sent: Tuesday, March 20, 2018 12:03 PM
To: 'jesse.mckinley@nytimes.com'
Cc: 'shane.goldmacher@nytimes.com'; 'brian.rosenthal@nytimes.com';
'vivian.wang@nytimes.com'; 'metro@nytimes.com'; 'editorial@nytimes.com'
Subject: Those "so-called Senate certifications" & other EVIDENCE of Comptroller DiNapoli's betrayal of the duties of his office -- mandating NYT investigation & report about him & other public officers in this ELECTION YEAR
Attachments: 5-18-17-foil-lulu-certifications.pdf; 3-19-18-foil-comptroller-nyt.pdf

TO: Jesse McKinley/New York Times

Your March 16, 2018 article "[No Lulus for You: Comptroller Threatens to Withhold Lawmakers' Payments](#)" makes initial reference to "so-called Senate certifications" – without explaining your apparent skepticism that they are "certifications", which you then abandon in subsequent references to "The most recent certification" and "the Senate certification".

Last year, by my below and attached May 18, 2017 FOIL request to Comptroller DiNapoli – to which you were an indicated recipient – I signaled to you that the "certifications" you were referencing in your reporting about the lulus were a key issue. They remain key – and this is reflected by my above attached March 19, 2018 FOIL request to Comptroller DiNapoli, to which you are also an indicated recipient.

When are you available for a conversation about what appears to be a pattern and practice in Comptroller DiNapoli's office of either dispensing with certifications or anything that in form and content meets the requirements and purposes of certification. I have made a number of FOIL requests to Comptroller DiNapoli involving certification issues and HUGE amounts of taxpayer monies – and his responses are shocking and altogether inconsistent with his constitutional and statutory responsibilities to safeguard public funds.

This is an election year – and your March 16th article is akin to free publicity for Comptroller DiNapoli, failing to probe, or even report, troubling aspects of the lulu story as they relate to him – including his responsibility for the absence of discernible action by prosecutorial and ethics authorities. Are you unfamiliar with DiNapoli's comptroller website: <http://www.osc.state.ny.us/investigations/index.htm>, touting that he "partners with law enforcement to bring corrupt officials to justice and recoup stolen taxpayer money" – and with his 2018 campaign website: http://dinapoli2018.com/record/the_dinapoli_record/, stating that he has:

"Created the Joint Task Force on Public Integrity with Attorney General Eric Schneiderman, a partnership resulting in the recovery of millions of dollars and arrests of dozens of state and local officials and contractors who stole or misused public funds

Expanded the Investigations Division and enhanced coordination with prosecutors including US Attorneys, local district attorneys and the Attorney General".

Consistent therewith, did Comptroller DiNapoli NOT "partner" and initiate complaints or make referrals to Albany County District Attorney Soares or Attorney General Schneiderman – both of whom are the relevant state prosecutorial authorities -- and did he file NOTHING with JCOPE, or with the Senate and Assembly ethics committees, or with the Legislative Ethics Commission? Did he NOT think that his office – individually or in conjunction with any of these authorities – owed the taxpaying public findings of fact and conclusions of law about the lulus, including, if necessary, by

a lawsuit bringing the matter to trial, with testimony taken publicly from witnesses under oath? My yesterday's FOIL request attempts to get some answers in seeking:

“all record reflecting what actions, if any, the Comptroller took to clarify from ‘legal authorities’ the ‘legality of the Senate’s practices’ throughout the 10 months in which he did not ‘claw back’ ‘lulu’ payments based on last year’s [Senate] requests”.

Of course, Comptroller DiNapoli is a named defendant in CJA’s citizen-taxpayer action(s) PRECISELY because he is NOT doing his job, including with respect to something as basic as certifications and his constitutional and statutory duty to investigate and refer for criminal prosecution fully-documented complaints of fraud and larceny of taxpayer dollars. By the way, have you checked out CJA’s webpages laying out the EVIDENCE, with respect to Comptroller DiNapoli: <http://www.judgewatch.org/web-pages/elections/2018/dinapoli.htm> and with respect to Attorney General Schneiderman, his co-defendant in the citizen-taxpayer action(s), representing himself and all co-defendants: <http://www.judgewatch.org/web-pages/elections/2018/schneiderman.htm>. And have you checked out CJA’s March 6, 2018 corruption complaint against them, the Legislature, and Governor Cuomo, among others, filed with Albany District Attorney Soares for enforcement of the “Public Trust Act” (Penal Law 496: ‘corrupting the government’) – the importance of which was the pretense for Governor Cuomo’s establishing the Commission to Investigate Public Corruption in July 2013 and whose enactment was the pretense for his shutting it down, as part of his “three-men-in-a-room”, behind-closed-doors budget deal in March 2014: <http://www.judgewatch.org/web-pages/searching-nys/2018-legislature/enforcing-public-trust-act.htm>

Please let me hear from you, soon – especially as all this is germane to the unfolding “grand larceny of the public fisc”, happening NOW, with respect to the fiscal year 2018-2019 state budget, where, *inter alia*, and as in past years, in violation of Article VII, Sec. 1 of the NYS Constitution, not only is the ENTIRETY of the Legislative budget NOT certified, but Governor Cuomo has inserted tens of millions of dollars of uncertified “reappropriations” in a misleadingly titled, out-of-sequence section, at the back of his Legislative/Judiciary budget bill. My testimony about this and other certification issues at the Legislature’s February 5, 2018 budget hearing on “local government officials/general government” is here: <http://www.judgewatch.org/web-pages/searching-nys/2018-legislature/feb-5-2018-hearing.htm>. If you have NOT watched it, please do so IMMEDIATELY. It is less than 7 minutes.

Thank you.

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Thursday, May 18, 2017 1:01 PM
To: 'foil@osc.state.ny.us' <foil@osc.state.ny.us>; 'Senate Foil' <foil@nysenate.gov>
Cc: 'jesse.mckinley@nytimes.com' <jesse.mckinley@nytimes.com>
Subject: FOIL/Records Request: Senate "certifications" for "lulu" payments (Legislative Law §5a), as reported by New York Times reporter Jesse McKinley, &/or existing

Attached is the Center for Judicial Accountability’s above-entitled FOIL request of today’s date.

Thank you.

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