



New York State Joint Commission on Public Ethics
 540 Broadway Plaza
 Albany, New York 12207
 www.jcope.ny.gov
 518-408-3976

SWORN COMPLAINT

The Joint Commission on Public Ethics has jurisdiction to investigate potential violations of Public Officers Law §73, §73-a, §74, Civil Service Law §107 and Legislative Law article 1-A as they apply to state legislators, candidates for the Legislature and legislative employees, as well as the four statewide elected officials, candidates for those offices, executive branch state employees, certain political party chairs, and lobbyists and their clients.

COMPLAINANT NAME Center for Judicial Accountability, Inc.
 ADDRESS Box 8101
 CITY, STATE, ZIP White Plains New York 10602 *Elena*
 TELEPHONE 914-421-1200 *Director*
 EMAIL elena@judgewatch.org

Please provide a statement or description of the alleged violation of Public Officers Law §73, §73-a, §74, Civil Service Law §107 or Legislative Law article 1-A including facts constituting a violation of the law(s) above, the identity of the individual(s) at issue and, if possible, a date, time, place of the alleged violation. Also note any documents or exhibits you are including to support the allegations.

see accompanying December 11 2014
ethics complaint
inaction due to disregard of
conflict of interest rules
by all public officers & agencies
& so reported to the
Commission to Investigate Public
Corruption

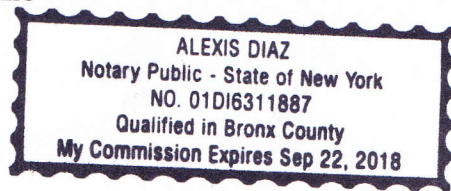
Has this matter been referred to any other agency? Yes No
 If yes, which agency? _____
 Is there a pending legal action you are aware of? Yes No
 If yes, where? Supreme Court - NYC Supreme Court - Albany Co.
Appellate Division 3rd Dep.

I, Elena Roth Saunders, being duly sworn, have read the foregoing complaint in its entirety, including any additional pages, and to the best of my knowledge, or based on information and belief, believe it to be true. I also understand the intentional submission of false information may constitute a crime punishable by fine or imprisonment, or both.

Sworn to before me this 11th day of
December, 2014
 MONTH

Elena Roth Saunders
 SIGNATURE

[Signature]
 NOTARY PUBLIC



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December 11, 2014

TO: Joint Commission on Public Ethics (JCOPE)

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

RE: Conflict of Interest Ethics Complaint vs Governor Andrew Cuomo, Legislative Leaders, & JCOPE for Violation of the Public Integrity Reform Act of 2011 Pertaining to the Review Commission Statutorily-Required to be Appointed “No later than June 1, 2014”

This is to initiate an ethics complaint against Governor Andrew Cuomo, Senate Majority Leader Dean Skelos, Assembly Speaker Sheldon Silver, Senate Minority Leader Andrea Stewart-Cousins, and Assembly Minority Leader Brian Kolb, as well as against the members and staff of the Joint Commission on Public Ethics (JCOPE). All have violated Public Officers Law §74 pertaining to conflict of interest with respect to the Public Integrity Reform Act of 2011, whose language could not be more mandatory and unequivocal:

“No later than June 1, 2014, the governor and the legislative leaders shall jointly appoint a review commission to review and evaluate the activities and performance of the joint commission on public ethics and the legislative ethics commission in implementing the provisions of this act. On or before March 1, 2015, the review commission shall report to the governor and the legislature on its review and evaluation which report shall include any administrative and legislative recommendations on strengthening the administration and enforcement of the ethics law in New York state. The review commission shall be comprised of eight members and the governor and the legislative leaders shall jointly designate a chair from among the members.” (Part A, §21, Chapter 399 of the Laws of 2011- Senate Bill #5679-2011/Assembly Bill #8301-2011, underlining added).

The facts and evidence, furnishing not only the “substantial basis” for this conflict-of-interest ethics complaint, but the *prima facie* proof, are laid out by CJA’s July 11, 2014 and July 18, 2014 letters, sent to the Governor and the above-mentioned Legislative Leaders, without response from them, and sent to JCOPE, without response from it. Although the letters are posted on CJA’s website, www.judgewatch.org, accessible *via* the prominent link “Exposing the Fraud of the Commission to Investigate Public Corruption”,¹ copies are enclosed for your convenience (Exhibits A, B).

¹ That link brings up a menu with a link entitled: “Going Where the Commission to Investigate Public

As of this date, nearly 6-1/2 months beyond June 1, 2014 – and notwithstanding a July 9, 2014 letter from the New York City Bar Association’s Committee on Government Ethics to the Governor and Legislative Leaders urging them to make the statutorily-required appointments, stating “time is of the essence” (Exhibit C)² – the Governor and Legislative Leaders have still not appointed the eight-member review commission and JCOPE has still not publicly called upon them to do so. Only their individual and collective self-interest that there be no review commission can account for this knowing and deliberate nonfeasance.

As expressly stated by our July 11, 2014 letter (at p. 2), any legitimate review commission would have to “blow the whistle” on JCOPE and expose its corrupt protectionism of the Governor and Legislative Leaders – as proven, resoundingly, by CJA’s June 27, 2013 ethics complaint against them and other constitutional and public officers and employees that JCOPE has been sitting on, now going on 18 months.

Our July 11, 2014 letter enclosed our June 27, 2013 ethics complaint against the Governor, Legislative Leaders, and other constitutional and public officers and employees for violation of Public Officers Law §74. It also enclosed our April 15, 2013 corruption complaint to U.S. Attorney Preet, which accompanied the June 27, 2013 ethics complaint and was part thereof, furnishing the particulars of their “grand larceny of the public fisc and other corrupt acts” pertaining to the statutorily-violative, fraudulent, and unconstitutional three-phase judicial salary increase recommended by the August 29, 2011 Report of the Special Commission on Judicial Compensation and the Judiciary’s slush-fund budget for fiscal year 2013-2014 that the Governor joined with the Legislature’s budget in Budget Bill #S.2601-A/A.3001-A.

The most cursory examination of this monumental, fully-documented two-in-one ethics/corruption complaint³ makes evident what an unconflicted JCOPE would have had to do pursuant to Executive Law §94.13 and §94.14:

- give notice to the Governor, Legislative Leaders and other constitutional and public officers and employees of their violations of Public Officers Law §74, as alleged in the June 27, 2013 ethics complaint, and afford them 15 days within which to furnish their written responses

Corruption Did NOT: Joint Commission on Public Ethics (JCOPE)”, from which the webpages for CJA’s July 11, 2014 and July 18, 2014 letters can be accessed, together with the underlying substantiating proof to which they refer. The webpage for this letter can also be accessed there.

² The City Bar’s letter, to which it received no response, was doubtlessly prompted by my several phone calls to the City Bar and its Committee on Government Ethics on July 11, 2014, inquiring as to their knowledge as to whether the review commission had been appointed – a fact the letter attempts to conceal by its July 9, 2014 date.

³ The volume of documentary proof substantiating the complaint may be seen from the video of my September 17, 2013 testimony before the Commission to Investigate Public Corruption, posted on CJA’s webpage for this letter. The direct link is: <http://www.judgewatch.org/web-pages/searching-nys/commission-to-investigate-public-corruption/holding-to-account/jcope-dec-11-ltr.htm>.

[Executive Law §94.13(a)];

- within 45 calendar-days vote to commence a “substantial basis investigation” as to their violations of Public Officers Law §74, with written notice to them of their right to be heard within 30 days [Executive Law §94.13(a), (b)];
- issue a “substantial basis investigation report” that violations of Public Officers Law §74 by the Governor and other executive branch constitutional and public officers and employees had been substantiated and send it to them – with public release of the report within 45 days thereafter [Executive Law §94.14(b)];
- assess civil penalties against the Governor and other executive branch officers and employees for their violations of Public Officers Law §74 and refer their larcenous, corrupt conduct “to the appropriate prosecutor for further investigation” [Executive Law §94.14]
- deliver to the Legislative Ethics Commission (LEC) a report of the violations of Public Officers Law §74 by legislators and legislative employees and refer their larcenous, corrupt conduct “to the appropriate prosecutor for further investigation” – with LEC thereafter publicly releasing the report and, if not, JCOPE releasing it [Executive Law §94.14(a); Executive Law §80.9(b)], with LEC also, within 90 days, assessing civil penalties against the legislators and legislative employees [Executive Law §80.10].

Nor is there any doubt what “the appropriate prosecutor” would be duty-bound to do, faced as he is with rock-solid, prima facie documentary proof of “grand larceny of the public fisc and other corruption” with respect to the judicial salary increases and the Governor’s Judiciary/Legislative Budget Bill #S.2601-A/A.3001-A. His duty is to indict New York’s highest constitutional officers – and not only in the executive and legislative branches, but also in the judicial branch. Indeed, because there is NO defense to the proof of their willful and deliberate official misconduct, the only discretion an “appropriate prosecutor” would have is whether to offer them plea deals so that they could avoid the certain and more dire consequences of an adverse court verdict.

As JCOPE’s own Code of Conduct underscores the applicability of conflict of interest rules to its members,⁴ please advise, without delay, how JCOPE will be handling this evidentiarily-established ethics complaint against itself – and against the Governor and Legislative Leaders who have appointed JCOPE’s 14 members [Executive Law §94.2] and with whom the members have political, professional, and personal relationships.⁵

⁴ See JCOPE’s webpage for the Code of Conduct for its members:
<http://www.jcope.ny.gov/about/Ethical%20Code%20of%20Conduct%20and%20Recusal%20Policy.pdf>.

⁵ JCOPE’s staff is also afflicted by conflicts of interest, such as its Executive Director, Letizia Tagliaferro, who was formerly Governor Cuomo’s director of intergovernmental affairs. See October 30, 2013 Daily News article “Former Gov. Cuomo aide Letizia Tagliaferro named executive director of Joint Commission on Public Ethics”, which noted “Some critics had argued the appointment would give the

By copy of this letter to the Legislative Ethics Commission (LEC), we also initiate an ethics complaint with it against the Legislative Leaders for their self-interested violation of their statutory duty to appoint the JCOPE/LEC review commission – and of their correlative duty to have taken appropriate action against the Governor, if the failure to appoint the review commission was attributable solely to him. In so doing, we request that LEC refer this complaint to all relevant authorities, including investigative and prosecutorial officers able to bring an Article 78 proceeding for mandamus to compel the Governor and Legislators to appoint the review commission.⁶ The jurisdictionally-proper public officers for this task are: Attorney General Eric Schneiderman, Albany County District Attorney P. David Soares, and U.S. Attorney for the Northern District of New York Richard Hartunian. Then, too, there are New York's purported corruption-fighting U.S. Attorneys for the Southern and Eastern Districts of New York, Preet Bharara and Loretta Lynch.

So that no time is wasted in bringing the necessary mandamus proceeding to uphold the rule of law and the public's rights, a copy of this letter will be directly furnished to these five investigative/prosecutorial officers, with a request that they rise above their own conflicts of interest, born of their own nonfeasance with respect to CJA's complaints to them of the "grand larceny of the public fisc and other corruption" that is the subject of our April 15, 2013 corruption complaint to U.S. Attorney Bharara on which our June 27, 2013 ethics complaint to JCOPE rests.⁷

governor too much influence over the panel."

According to JCOPE's October 29, 2013 press release announcing Ms. Tagliaferro's appointment, <http://www.jcope.ny.gov/public/2013/10.29.13%20press%20release.pdf>, she had been, since mid-2012, JCOPE's Director of Investigations and Enforcement – in which position she "oversaw all investigative and enforcement matters". This would have included CJA's June 27, 2013 ethics complaint.

Suffice to note that Ms. Tagliaferro has consistently failed to return phone messages I have left for her, including on December 3, 2014 and December 9, 2014 as to whether the JCOPE review commission had been appointed by the Governor and Legislative Leaders, the status of CJA's June 27, 2013 ethics complaint, and JCOPE's concealment of the status of it and other complaints by its annual reports.

⁶ Executive Law §80.11 states:

"If the commission has a reasonable basis to believe that any person subject to the jurisdiction of another state oversight body may have violated ...seventy-four of the public officers law, ...it shall refer such violation to such oversight body unless the commission determines that such a referral would compromise the prosecution or confidentiality of its proceedings and, if so, shall make such a referral as soon as practicable. The referral by the commission shall include any information relating thereto coming into the custody or under the control of the commission at any time prior or subsequent to the time of the referral."

⁷ The complicity of all these investigative/prosecutorial officers in the "grand larceny of the public fisc and other corrupt acts" by the Governor, Legislative Leaders, and other constitutional and public officers and employees – presented by our April 15, 2013 corruption complaint was attested to by me before the Commission to Investigate Public Corruption at its September 17, 2013 public hearing (see written testimony) and thereafter embodied in two lawsuits:

(a) an April 23, 2014 motion to intervene in the declaratory judgment action, *New York State Senate*,

Inasmuch as Governor Cuomo, upon announcing his shut-down of the Commission to Investigate Public Corruption after his behind-closed-doors budget deal with Legislative Leaders, purported:

“We have plenty of enforcement mechanisms by and large...I don’t believe we needed yet another bureaucracy for enforcement. We needed laws changed.”,

to which the Commission to Investigate Public Corruption’s Co-Chair William Fitzpatrick gave echo:

“The problem was not that the state lacked adequate prosecution capacity. After all, we have sixty-two District Attorneys, four U.S. Attorneys, and a statewide Attorney General. The problem was the weakness of laws addressing official misconduct...”⁸,

there should be ample enforcers of the statutorily-mandated JCOPE/LEC review commission, discharging their duty under law.

Thank you.



Enclosures & cc’s: see next page

New York State Assembly, Dean G. Skelos and Jeffrey D. Klein, as members and Temporary Presidents of the New York State Senate, and Sheldon Silver, as member and as Speaker of the New York State Assembly v. Kathleen Rice, William J. Fitzpatrick, and Milton L. Williams, Jr. in their official capacities as Co-Chairs of the Moreland Commission to Investigate Public Corruption (Supreme Court/New York Co. #16094/2013), by Elena Sassower, individually and as Director of the Center for Judicial Accountability, Inc., acting on her own behalf and on behalf of the People of the State of New York & the Public Interest (see proposed verified complaint: ¶¶15-100, 118-126).

(b) a March 28, 2014 citizens-taxpayer action under State Finance Law, Article 7-A, Center for Judicial Accountability, Inc. and Elena Ruth Sassower, individually and as Director of the Center for Judicial Accountability, Inc., acting on their own behalf and on behalf of the People of the State of New York & the Public Interest v. Andrew M. Cuomo, in his official capacity as Governor of the State of New York, Dean Skelos in his official capacity as Temporary Senate President, The New York State Senate, Sheldon Silver, in his official capacity as Assembly Speaker, The New York State Assembly, Eric T. Schneiderman, in his official capacity as Attorney General of the State of New York, and Thomas DiNapoli, in his official capacity as Comptroller of the State of New York (Supreme Court/Albany Co. #1788-14: see verified complaint: ¶¶5(h), (i), 33-34, 48-49, 72-73).

The records of these two lawsuits – each constituting a perfect paper trail of corruption for investigation and prosecution – are accessible from the prominent links on CJA’s homepage: “Exposing the Fraud of the Commission to Investigate Public Corruption” and “CJA’s Citizen-Taxpayer Action to End NYS’ Corrupt Budget ‘Process’ & ‘Three Men in a Room’ Governance”.

⁸ These two quotes appear at ¶¶73-74 of my April 23, 2014 affidavit in support of intervention on behalf of the People of the State of New York & the Public Interest in the declaratory judgment action *New York State Senate v. Rice, supra* (fn. 7).

Enclosures: Exhibit A: CJA's July 11, 2014 letter
with its enclosed June 27, 2013 ethics complaint to JCOPE &
April 15, 2013 corruption complaint to U.S. Attorney Bharara
Exhibit B: CJA's July 18, 2014 letter
Exhibit C: July 9, 2014 letter of the New York City Bar Association's
Committee on Government Ethics

cc: Governor Andrew M. Cuomo
Temporary Senate President Dean Skelos
Assembly Speaker Sheldon Silver
Senate Minority Leader Andrea Stewart-Cousins
Assembly Minority Leader Brian Kolb
Legislative Ethics Commission (ATT: Lisa Reid, Executive Director/Counsel)
Attorney General Eric Schneiderman
Albany County District Attorney P. David Soares
U.S. Attorney for the Northern District of New York Richard Hartunian
U.S. Attorney for the Southern District of New York Preet Bharara
U.S. Attorney for the Eastern District of New York Loretta Lynch
New York State Inspector General Catherine Leahy Scott
The New York City Bar Association (ATT: Alan Rothstein, Counsel)
& its Committee on Government Ethics (ATT: Benton Campbell, Chair)
Common Cause/NY (ATT: Susan Lerner, Executive Director)
NY Public Interest Research Group (NYPIRG) (ATT: Blair Horner, Legislative Director)
The Public & The Press