

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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September 5, 2017

TO: Would-Be Suffolk County District Attorney Tim Sini
Would-Be Suffolk County District Attorney Ray Perini

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

RE: INFORMING THE SUFFOLK COUNTY LEGISLATURE & SUFFOLK COUNTY VOTERS:

(1) What district attorney salary will you be claiming in the event Suffolk County voters elect you as their district attorney?;

(2) Will you enforce the penal law by investigating and prosecuting the Suffolk County state Senators and Assembly members who have colluded in the “grand larceny of the public fisc” involving judicial and district attorney salaries & the slush-fund state budget, established by the record of the citizen-taxpayer action, *CJA v. Cuomo, et al.* (Albany Co. #5122-16) – as, for instance, State Senator Phil Boyle, running to be Suffolk County sheriff?

As you know, Suffolk County is grappling with a budget deficit of approximately \$160 million. To address its “grave budget challenges”, a resolution is on the agenda of tomorrow’s meeting of the Suffolk County legislature to amend Chapter 205 of the Suffolk County Code, so as to freeze the salaries of county elected officials for the next four years, these being the salaries of the Suffolk County executive, Suffolk County district attorney, Suffolk County sheriff, Suffolk County clerk, Suffolk County comptroller, and the 18 members of the Suffolk County legislature.

On its face, resolution #1576-2017 seems to freeze the salary of the Suffolk D.A. In fact, it does not and cannot. And making this obvious is Chapter 205 of the Suffolk County Code itself, stating that “the State of New York [has set]...the compensation of the District Attorney of Suffolk County...on a statewide basis superseding local legislation on that subject” – and that “in no event shall the District Attorney’s salary be less than allowed under state law”.

The unidentified “state law” to which Chapter 205 of the Suffolk County Code refers is Judiciary Law §183-a – a law passed by the New York Legislature 40 years ago. It fixes the salary that counties outside of New York City, with populations over 500,000 – such as Suffolk County – are to pay their district attorneys as “equivalent” to that which the state pays as the salary for supreme court justices.

As a result of Judiciary Law §183-a – and the December 24, 2015 Report of the Commission on Legislative, Judicial and Executive Compensation recommending judicial salary increases – the judicially-linked Suffolk County D.A. salary is now higher than the salary of any other elected Suffolk county officer. On April 1, 2016, it became \$193,000. On April 1, 2017, it rose to approximately \$195,000. On top of that, the Suffolk County D.A. also gets non-salary benefits, as for instance, health insurance, which adds on another \$20,000 or so, plus, such salary-based, non-salary benefits as pension and social security, putting the current total compensation package for the Suffolk County D.A. at about \$230,000, if not more. All of this is paid from the Suffolk County budget.

Nor is this the end. Next year, the Commission on Legislative, Judicial and Executive Compensation's December 24, 2015 Report will put Suffolk County taxpayers on the hook for a further jump in the judicially-linked salary of their district attorney, increasing it by approximately \$8,000 to \$203,000. And in 2019, there will be a further, more incremental, jump.

Last year, our non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA) furnished Suffolk County with NOTICE of its duty to protect Suffolk County taxpayers from the D.A. salary increases arising from the Commission on Legislative, Judicial and Executive Compensation's December 24, 2015 Report. We identified that not only was the state not reimbursing Suffolk County for these increases, but that the December 24, 2015 Report was a "false instrument", violative of a succession of penal law provisions – and known as such by the leaders of the state Legislature, a huge swath of its rank and file, and by Governor Cuomo, Attorney General Schneiderman, and Comptroller DiNapoli, all defendants in a citizen-taxpayer action, suing them for "grand larceny of the public fisc" and seeking a judicial declaration to void the December 24, 2015 Report as statutorily-violative, fraudulent, and unconstitutional.

Our NOTICE, which was dated July 8, 2016, stated that the record of the citizen-taxpayer action, *CJA v. Cuomo, et al.* (Albany Co. #1788-2014) which we had brought, in the public interest, on behalf of the People of the State of New York, was posted on our website, www.judgewatch.org, and that from it Suffolk County District Attorney Thomas Spota could verify its posture as one of summary judgment for the plaintiffs and that his duty was to apprise the Suffolk County attorney, Suffolk County legislature, and the Suffolk County executive that he was disavowing the salary increases arising from December 24, 2015 Report. We stated that were he to do otherwise and claim the D.A. salary increases flowing from the Report, he would be complicit in the very penal law violations that are his duty to prosecute – and if he disagreed, his duty was to furnish findings of fact and conclusions of law with respect to the lawsuit record.

We received no response from D.A. Spota, nor from the Suffolk County attorney – both of whom we had e-mailed directly, attaching the NOTICE. Nor did we receive any response from the County legislature, County executive, or County comptroller, to whom we had furnished the NOTICE *via* the legislature's clerk, whose distribution to them we had requested. Indeed, the only response we received from Suffolk County was to one of our two FOIL requests, from which it appears that D.A. Spota may not have laid claim to salary increases arising from the December 24, 2015 Report. We

will FOIL further to better ascertain the situation.

Suffice to say that our question to you, as candidates for the office of Suffolk County D.A. – prompted by inclusion of resolution #1576-2017 on the agenda of tomorrow’s meeting of the Suffolk County legislature – is one whose answer both the Suffolk County legislature must have and to which Suffolk County voters are entitled: whether, if elected to succeed D.A. Spota, you will be laying claim to the D.A. salary increases arising from the December 24, 2015 Report – or repudiating them and advising Suffolk County to take steps to void them, including by filing an *amicus curiae* brief in CJA’s citizen-taxpayer action – which is now a successor citizen-taxpayer action, *CJA v. Cuomo, et al.* (Albany Co. #5122-2016), as to which, at its outset a year ago, we furnished Suffolk County, through its County attorney, with a September 7, 2016 Notice of Right to Seek Intervention, pursuant to CPLR §§1012 and 1013.

To assist you in getting “up-to-speed” on the issue of the statutorily-violative, fraudulent and unconstitutional December 24, 2015 Report – and your duty, not only to disavow any salary increases arising therefrom, but, upon your election, to enforce the penal law by investigating and prosecuting each Suffolk County state Senator and Assembly member who has colluded in the “grand larceny of the public fisc” involving judicial and district attorney salaries and the slush-fund state budget, chronicled by the record of the citizen-taxpayer action, *CJA v. Cuomo, et al.* (Albany Co. #5122-16) – as for instance State Senator Phil Boyle, running to be Suffolk County sheriff – I have prepared a webpage on which the pertinent evidence is posted and/or linked. As such evidence reflects adversely upon the fitness of *every* incumbent state Senator and Assembly member, it is accessible from CJA’s homepage, www.judgewatch.org, via the prominent link: “OUTING CORRUPT & COLLUSIVE INCUMBENTS & Ending their Road to Re-Election & Higher Office in 2017, 2018, & Beyond – WITH EVIDENCE”.

Needless to say, this is also an opportunity for each of you to enunciate for Suffolk County voters how you will address conflicts of interest, should they elect you as their district attorney – a critical issue that CJA’s July 8, 2016 NOTICE identified as one which Suffolk County should have directed D.A. Spota to answer, if he did not do so voluntarily.

Suffice to note that among the multitudinous personal, professional, and political relationships that led to the substantial endorsements that D.A. Candidate Sini has received is his relationship with the former U.S. Attorney for the Southern District of New York, Preet Bharara, whose first endorsement, upon being fired by President Trump, was of Mr. Sini, who had worked for him for four years, including on April 15, 2013, when I hand-delivered to his Southern District office a corruption complaint against New York State’s highest public officers in all three branches for their “grand larceny of the public fisc and other corrupt acts” involving the judicial and district attorney salary increases and the slush-fund state budget.

It was U.S. Attorney Bharara’s inexplicable nonfeasance with respect to CJA’s fully-documented April 15, 2013 corruption complaint, perhaps involving such underling staff as then Assistant U.S. Attorney Sini, that gave rise to CJA’s two citizen-taxpayer actions, commenced on March 28, 2014

and September 2, 2016, respectively – and no findings of fact and conclusions of law pertaining to those citizen-taxpayer actions could fail to expose U.S. Attorney Bharara’s fraud by his posturing as a corruption-busting crusader, including in the context of his endorsement of now D.A. Candidate Sini, posted on his campaign website:

“Those of us who stand for justice, integrity and the law, stand with Tim Sini for District Attorney. ... As District Attorney, he will bring the culture of the Southern District of New York to the top law enforcement office in Suffolk County.”

As established by the long and continuing after-life of CJA’s April 15, 2013 corruption complaint, the actual “culture of the Southern District of New York”, under U.S. Attorney Bharara, was one of cover-up of the nature and extent of public corruption, involving, in the first instance, the state’s malfeasant and nonfeasant district attorneys and the sham Commission to Investigate Public Corruption they controlled. And just as U.S. Attorney Bharara covered up for the district attorneys and the Commission to Investigate Public Corruption, so they did, likewise, for him.¹

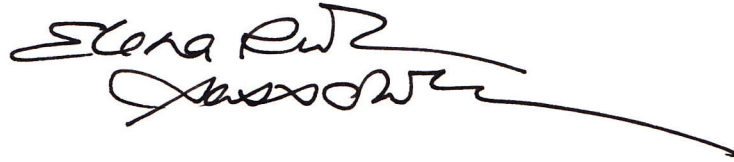
A copy of this letter is being furnished, simultaneously, to the Suffolk County legislative clerk for distribution to the 18 members of the Suffolk County legislature so that none are misled as to the worthlessness of their resolution #1576-2017 insofar as what it accomplishes in freezing the Suffolk County D.A. salary – which is ZERO. Lest the public be misled, this letter will also be furnished to the press so that, by their investigation and reporting, Suffolk County voters can begin to be informed as to what has been going on with their tax dollars and the performance and salaries of their public servants. Senator Boyle, as a member of so many of the Senate committees whose knowing and deliberate nonfeasance I testified about at the Legislature’s January 30, 2017 budget hearing on “Local Government Officials/General Government”,² and with whose office I had direct communication on June 1, 2016 on the subject of D.A. salaries, reimbursement to the counties, and the statutorily-violative, fraudulent and unconstitutional December 24, 2015 Report of the Commission on Legislative, Judicial and Executive Compensation, with further communication by my January 26, 2017 e-mail, should be the first incumbent to be so scrutinized by the press.

I am available – and eager – to assist you and to answer such questions as you may have.

¹ The particulars of this symbiotic protectionism – also involving New York State Attorney General Eric Schneiderman – are set forth by CJA’s April 23, 2014 order to show cause to intervene, on behalf of the People of the State of New York, with verified complaint, in the declaratory judgment action against the Commission to Investigate Public Corruption, purportedly brought by the Senate and Assembly. The link is posted on CJA’s webpage for this letter.

² The VIDEO of the Legislature’s January 30, 2017 budget hearing, as likewise the VIDEO of its January 31, 2017 budget hearing on “public protection”— and the VIDEO of its February 6, 2013 budget hearing on “public protection” – at which I testified LAST at each hearing, giving pertinent testimony, on each occasion, about the statutorily-violative, fraudulent, and unconstitutional judicial salary increases and, at the January 30, 2017 and February 6, 2013 budget hearings, about the district attorney salary increases resulting therefrom, are all posted on CJA’s webpage for this letter.

Thank you.

A handwritten signature in black ink, appearing to read "Elena Ruiz" followed by a stylized flourish.

cc: Suffolk County Legislators
Suffolk County Legislative Clerk Jason Richberg
Suffolk County Attorney Dennis Brown
Suffolk County District Attorney Thomas Spota
State Senator/Would-Be Suffolk County Sheriff Phil Boyle
Would-Be Suffolk County Sheriff Candidate Larry Zacaese
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