



New York State Joint Commission on Public Ethics
 540 Broadway Plaza
 Albany, New York 12207
 www.jcopeny.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
 TELEPHONE 914-455-4373
 EMAIL elena@judgewatch.org

Elena Sassower
Sassower
Director

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 note 27, 2013.
ethics complaint

and Comptroller's Investigations Unit
and US Attorneys for the Southern
Eastern, & Northern Districts of NY

Has this matter been referred to any other agency?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, which agency?	<u>Attorney General's Public Integrity Bureau</u>	
Is there a pending legal action you are aware of?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, where?	<u>Supreme Court - New York County</u>	

I, Elena Sassower, 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 27th day of
JUNE, 2013
 MONTH

Elena Sassower
 SIGNATURE

Jane Romero
 NOTARY PUBLIC

JANE ROMERO
 Notary Public, State of New York
 No. 01RO6176895
 Qualified in Westchester County
 Commission Expires Nov. 5, 2015

CENTER for JUDICIAL ACCOUNTABILITY, INC.*

Post Office Box 8101
White Plains, New York 10602

Tel. (914)455-4373

E-Mail: cja@judgewatch.org
Website: www.judgewatch.org

June 27, 2013

TO: New York State Joint Commission on Public Ethics

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

RE: (1) Conflict of interest ethics complaint against executive & legislative branch constitutional officers & employees whose grand larceny of the public fisc and other corrupt acts are particularized by CJA's April 15, 2013 corruption complaint to U.S. Attorney Bharara;

(2) Request for advisory opinion as to whether Senate and Assembly rules, vesting domineering powers in the Temporary Senate President and Assembly Speaker, create coercive and retaliatory conditions, substantially interfering with the ability of Senate and Assembly Members to discharge their constitutional duties, where doing so exposes the official misconduct of those leaders

Pursuant to Executive Law §94.9(g), this is to initiate an ethics complaint against three of the four statewide elected officials within your jurisdiction: Governor Andrew Cuomo, Attorney General Eric Schneiderman, and Comptroller Thomas DiNapoli, as well as all New York State legislators within your jurisdiction, beginning with Temporary Senate President Dean Skelos and Assembly Speaker Sheldon Silver and those occupying positions of Senate and Assembly leadership. Additionally, this complaint is against their complicit counsel and professional staffs, who are executive and legislative employees over whom you also have jurisdiction. The most important of these, in the executive branch, is Budget Director Robert Megna.

At issue is their willful and deliberate violation of Public Officers Law §74, including, specifically:

“2. Rule with respect to conflict of interest: No officer or employee of a state agency, member of the legislature or legislative employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

* **Center for Judicial Accountability, Inc. (CJA)** is a national, non-partisan, non-profit citizens' organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

3. Standards.

...

d. No officer or employee of a state agency, member of the Legislature or legislative employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others, including but not limited to, the misappropriation to himself, herself or to others of the property, services or other resources of the state for private business or other compensated non-governmental purposes.

...

f. An officer or employee of a state agency, member of the legislature or legislative employee should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.

...

h. An officer or employee of a state agency, member of the legislature or legislative employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.”

The facts pertaining to their violation of these ethical rules, spanning to April 15, 2013, are set forth in the Center for Judicial Accountability’s corruption complaint of that date to U.S. Attorney Preet Bharara. It summarizes the evidence establishing that these public officers and employees have willfully and deliberately disregarded their duty to protect the public purse against judicial pay raises they KNOW to be statutorily-violative, fraudulent, and unconstitutional – pay raises which, unless halted, will cost New York taxpayers well over \$100 million dollars at the end of next fiscal year – and, thereafter, approximately \$50 million each year in perpetuity.¹

The evidence presented by our April 15th corruption complaint is as follows:

- (1) CJA’s October 27, 2011 Opposition Report to the August 29, 2011 Final Report of the Commission on Judicial Compensation, furnished to the complained-against public officers and employees;
- (2) CJA’s March 30, 2012 Verified Complaint in our lawsuit based thereon, *CJA, et al. v. Cuomo, et al.*, furnished to the complained-against public officers and employees;
- (3) CJA’s voluminous correspondence to the complained-against public officers and employees about the Opposition Report and Verified Complaint – both before and

¹ The April 15, 2013 corruption complaint is also against Chief Judge Jonathan Lippman and judicial constitutional officers and employees, who are not within your ethics jurisdiction.

after I testified at the Legislature's February 6, 2013 joint public hearing on "public protection" about them;

(4) my February 6, 2013 testimony at the Legislature's joint public hearing on "public protection" about the Opposition Report, Verified Complaint, and lack of itemization in the Judiciary's budget.

All this evidence and the April 15th corruption complaint are posted on our website, www.judgewatch.org, via the webpage "Holding Government Accountable for its Grand Larceny of the Public Fisc and Other Corruption", accessible via the top panel "Latest News".

In the interest of economy, we rest on the factual recitation of the April 15th corruption complaint, a copy of which we enclose for your convenience. The focus here is on the conflicts of interest, proscribed by Public Officers Law §74, that underlie the larcenous and corrupt conduct that the April 15th complaint particularizes. Indeed, ONLY conflicts of interest can explain the willful and deliberate failure of Governor Cuomo, Temporary Senate President Skelos, and Assembly Speaker Silver to take the action to protect the public, expressly requested by the cover of the Opposition Report addressed to them – and warranted by its content:

- (1) "Legislation Voiding the Commission's Judicial Pay Recommendations;
- (2) Repeal of the Statute Creating the Commission;
- (3) Referral of the Commissioners to Criminal Authorities for Prosecution;
- (4) Appointment of a Special Prosecutor, Task Force, and/or Inspector General to Investigate the Documentary and Testimonial Evidence of Systemic Judicial Corruption, Infesting Supervisory and Appellate Levels and the Commission on Judicial Conduct – which the Commission on Judicial Compensation Unlawfully and Unconstitutionally Ignored, Without Findings, in Recommending Judicial Pay Raises."

That all such relief – possibly excepting repeal of the statute – was compelled, *as a matter of law*, gives you probable cause to subpoena Governor Cuomo, Temporary Senate President Skelos, and Assembly Speaker Silver for their testimony as to what they did upon receiving the Opposition Report and for production of their findings of fact and conclusions of law with respect thereto. Likewise, you have probable cause to similarly subpoena the other constitutional and public officers and employees who, thereafter, had a duty with respect to the Opposition Report when it was presented to them for action.

Among the conflicts of interest that would account for their criminal disregard of their duty with respect to the four branches of relief sought by the October 27, 2011 Opposition Report:

- (1) Their self-interest in the judicial pay raises. The most expeditious way for executive and legislative branch constitutional officers to secure their own pay raises was to raise judicial salaries – there being an obvious, if not constitutionally-dictated, correlation in the salaries of judicial constitutional officers and the salaries of executive and legislative constitutional officers in a system of government with three co-equal branches. (Verified Complaint, ¶¶1, 59, 95, 165). This gave them a direct interest in not exposing any of the statutory and constitutional violations and fraud committed by the commissioners, demonstrated by the Opposition Report;
- (2) Their self-interest in the “success” of the statute creating the Commission on Judicial Compensation. The most politically advantageous way for the executive and legislative constitutional officers to secure their own pay raises was if it could be done, indirectly, through a statute creating a commission modeled after the statute that had created the Commission on Judicial Compensation, Chapter 567 of the Laws of 2010. (Verified Complaint, ¶¶1, 138). This gave them a direct interest in not exposing any of the constitutional and statutory infirmities of Chapter 567 of the Laws of 2010 or the constitutional and statutory violations in its implementation, demonstrated by the Opposition Report;
- (3) Their self-interest in not referring the commissioners for criminal prosecution. The brazenness of the commissioners’ constitutional and statutory violations and fraud – indeed, of their disrespect for the most basic conflict of interest rules in allowing their chairman, William C. Thompson, Jr., to disregard the threshold issue of his disqualification for interest – suggests that the authorities who appointed them – Governor Cuomo, Temporary Senate President Skelos, Assembly Speaker Silver, and Chief Judge Lippman – gave them reason to believe that they would be “above the law” and shielded from any consequences. Under such circumstances, the appointing authorities could not refer the commissioners for criminal prosecution, without implicating themselves in their transgressions.

Certainly, too, the seven commissioners had personal and professional relationships with the appointing authorities – creating conflict of interest for the authorities in referring the commissioners for criminal prosecution. As illustrative, Temporary Senate President Skelos’ sole appointee to the Commission was Mark S. Mulholland, Esq., managing partner of Ruskin, Moscou, & Faltischek, P.C., the law firm to which Temporary Senate President Skelos is “of counsel”. Assembly Speaker Silver’s sole appointee was James Tallon, Jr., whose relationship with the Speaker may be presumed from the fact that Mr. Tallon was an Assembly Member for 19 years and its Majority Leader from 1987-1993. (Opposition Report, at pp. 16-17).

- (4) Their self-interest in not appointing a special prosecutor, task force, and/or inspector general to investigate the documentary and testimonial evidence of systemic judicial corruption, infesting supervisory and appellate levels and the Commission on Judicial Conduct, which the Commission on Judicial Compensation had ignored, without findings, in recommending judicial pay raises. Because this evidence was sufficient, *without more*, to disentitle the judiciary from any pay raises – and so-stated by CJA’s June 23, 2011 letter requesting Chairman Thompson’s disqualification for interest based thereon (Opposition Report, Ex. B-1; Verified Complaint, ¶79) – the executive and legislative officers had an interest in preventing investigation of that evidence, their compensation being properly correlated to judicial compensation. (Opposition Report, at pp. 14, 26-29, 36-37, Verified Complaint, ¶¶59, 165).

Appointment of a special prosecutor, task force, and/or inspector general would expose other self-interest and conflict of interest, as for instance:

Governor Cuomo’s knowledge of, and complicity in, systemic judicial corruption, involving supervisory and appellate levels and the Commission on Judicial Conduct, going back to 2006, when he was candidate for Attorney General. Likewise, his continued complicity in judicial corruption, upon becoming Attorney General, including by his inexplicable failure to reargue or appeal to the U.S. Supreme Court the February 24, 2010 Court of Appeals’ decision in the judges’ judicial compensation lawsuits – underlying the statute creating the Commission on Judicial Compensation – Chapter 567 of the Laws of 2010. (Verified Complaint, ¶¶5(e), 6, 61, 122).

Temporary Senate President Skelos’ knowledge of, and complicity in, systemic judicial corruption, involving supervisory and appellate levels and the Commission on Judicial Conduct, while a member of the Senate Judiciary Committee (Verified Complaint, ¶9). Likewise, the corruption of his own brother, Appellate Division, Second Department Justice Peter Skelos, who corrupted appellate and supervisory remedies in the case of *McFadden v. Sassower*, which CJA presented to the Commission on Judicial Compensation (Opposition Report, Ex. K-1: CJA’s Aug. 23, 2011 ltr to Chief Administrative Judge Pfau (at p. 5), plus attachments thereto: CJA’s June 14, 2011 ltr to Chief Administrative Judge Pfau (pp. 4-7) & CJA’s March 16, 2011 ltr to Justice Peter Skelos) – the same case as is described at ¶5(e) of the Verified Complaint;

Assembly Speaker Silver’s close friendship, from childhood, with Chief Judge Jonathan Lippman, whose role in perpetuating systemic judicial corruption, involving supervisory and appellate levels and the Commission on Judicial Conduct, would be exposed by any investigation (Verified Complaint, ¶¶13, 11);

Attorney General Schneiderman’s knowledge of, and complicity in, systemic judicial corruption, involving supervisory and appellate levels and the Commission on Judicial Conduct, as a member of the Senate Judiciary Committee, including in 2009 when then-Chairman John Sampson held hearings on the Commission on Judicial Conduct and the court-controlled attorney disciplinary system. Also, his complicity in judicial corruption as Attorney General, including by his willful failure to furnish the Commission on Judicial Compensation with information essential to its consideration (Verified Complaint, ¶¶7, 47-55, 95 122; Exhibit E-1 to Verified Complaint).

Obviously, there are a multitude of conflicts of interest which individually or in combination could explain why our highest constitutional officers: Governor Cuomo, Temporary Senate President Skelos, Assembly Speaker Silver, Attorney General Schneiderman, and Comptroller DiNapoli – the public's first line of defense – each knowingly and deliberately refused to protect the public by taking the action sought and compelled by CJA's Opposition Report. Your subpoena for their testimony will answer which specific conflicts kept them from doing so.

Counsel and professional staff of these highest constitutional officers undoubtedly undertook the initial review of the Opposition Report. If they were unconflicted and discharging their "duties in the public interest", as they were required to do, the least of their recommendations would have to have been for an override of the judicial pay raises. All we know is that none of our highest constitutional officers, with their ample counsel and professional staffs, took any action to uphold the public interest and protect the public pocketbook.

And what about Governor Cuomo's budget director, Robert Megna – to whom we independently turned with a November 1, 2011 letter entitled "Protecting the Public Purse & Public Interest: Request That You Take Steps to Secure Governor Cuomo's Introduction of Legislation to Override the Commission on Judicial Compensation's Statutorily-Violative and Unconstitutional Judicial Pay Raise Recommendations"?² The "proper discharge of his duties in the public interest" required him to notify the Governor, as the letter requested, that the judicial pay raises could not stand because the Commission had only examined judicial salary, not "compensation and non-salary benefits" as the statute required, and failed to address other statutorily-mandated "appropriate factors". Did he do that? Or did he hold back because he was subordinate to the Governor, to whose conflicts of interest he was hostages? Or did he have his own additional conflicts? All we know is that the Governor took no action.

The public's second line of defense were the Senators and Assembly Members in leadership positions, other than Temporary Senate President Skelos and Assembly Speaker Silver. These included, in addition to the minority leadership in each house, the chairs and ranking members of the four committees having principal oversight over the Judiciary and appropriations to it: the Senate Judiciary Committee and Assembly Judiciary Committee, the Senate Finance Committee, and the Assembly Ways and Means Committee – all with counsel and professional staffs assisting them. Additionally, in connection with the budget for fiscal year 2013-2014, the Senators and Assembly Members appointed to the General Budget Conference Committee and its Subcommittee on "Public Protection", Criminal Justice, & Judiciary. The public's third line of defense were the rank and file Senators and Assembly Members.

Investigation would reveal the extent to which these legislative constitutional officers and their counsel and professional staff abandoned "the proper discharge of [their] duties in the public interest" because of their personal, professional, and political relationships – whether with the higher up constitutional officers, whose criminal nonfeasance with respect to CJA's Opposition Report

² The November 1, 2011 letter is Exhibit P to our Verified Complaint.

would otherwise be exposed, or with the Commission on Judicial Compensation's members, whose corruption and fraud would otherwise be exposed, or with the judiciary and other advocates of judicial pay raises who perpetrated the mountain of deceptions on the judicial pay raise issue that would otherwise be exposed – or because of their self-interest in their own compensation.

Certainly, too, Senators and Assembly Members are disabled by Senate and Assembly rules vesting domineering powers in the Temporary Senate President and Assembly Speaker and creating coercive and retaliatory conditions that impinges on their discharging their constitutional duties, where doing so would reflect adversely on the leadership that holds such power over them – as at bar. In the context of calls for Sheldon Silver's ouster as Assembly Speaker over his handling of the sexual harassment complaints against Assemblyman Vito Lopez, Assembly Members have referred to his enormous power inhibiting their colleagues – without connecting this power to the rules.

Assemblyman Kieran Lalor:

“Speaker Silver is a bully. He has bullied down opposition to the point where there is very little opposition. And some of his tactics have come right up to the line of what's ethical and what's not. Moving offices around, taking away salaries. He intimidates. He uses taxpayer money and campaign money to intimidate his own conference and the other conference... For Democrats, it's the internal Assembly workings: stipends, leadership posts, all that, and campaign cash to [Democratic] campaigns. Everybody wants to get re-elected, to come back up here and represent their people...”, May 23, 2013 press conference (at 20:48 mins.);

Assemblyman Steve McLaughlin:

“...you talked about intimidation and some of the pressure that can be brought to bear...I'm not sure which member said it, I read it over the weekend, but it wasn't attributed to a specific Democratic member, but it was one of the female members and she said, 'I still want to get things done' and I just thought that was a very telling quote as to why a lot of people choose not to stand up and push back”, May 23, 2013 press conference (at 23:32 mins).

Assemblyman Bill Nojay:

“I just want to make a two-word answer to the questions as to why there is not more support for doing these things within the Democratic conference. I'm not going to speak for them, but I'll speculate. And those two words are: Michael Bragman. Anybody who was around at that time knows what happened. They know the consequences... Michael Bragman wanted a change of leadership”, May 23, 2013 press conference (at 24:14 mins.).

Assemblyman Michael Kearns:

“Speaker Silver is a very powerful person...from the person who cleans the bathroom to the person at the highest level, is the person who reports to the Speaker.” (at 2:23 mins.);

“...anyone who knows the mechanics of Albany, knows that this is a huge risk on my part, whether it be legislatively, staffing, it’s something, though, I believe in, we cannot stand by...” (at 3:30 mins.);

“Any legislation that comes up starts with the Speaker...the one thing he can control is what legislation comes to the floor and what can be brought up... take a look at this office, it will probably be the last time I’m in it. ...I don’t know what those consequences will be, but I’ll face them...” (4:40 – 5:40 mins.);

“I’ll face the consequences whatever they may be...for four months I had legislation that just sat there...” (7:50 mins.);

“we have good bills out there that are not getting to the floor. Why is that? Because someone controls the democratic process, the legislative process” (9:06 mins.);

“I’m going to suffer the consequence of this...whether it’s loss of staffing...” (10:40 mins). May 20, 2013 press conference.

Similarly, press reporting has not connected Speaker Silver’s power to the rules:

The New York Times:

“Mr. Silver, from Manhattan, has consolidated power by rewarding his loyal supporters with higher-paying leadership posts, placing his allies throughout state government and using his considerable campaign war chest and redistricting know-how to assist any endangered Democratic candidates....

For years, Albany watchers have discussed and debated how Mr. Silver, who was elected in 1976 and became speaker in 1994, maintains his grip on power. The administration of Eliot Spitzer, a Democratic governor with a combative relationship with the Legislature, even once prepared a 21-page opposition research report on the speaker — a telling step given that both men were from the same party.

The report surveyed criticism of Mr. Silver, citing a Buffalo News editorial that said he ‘controls everything from the legislation that can be voted on to how his normally docile members vote on it,’...

Mr. Silver has proved himself a master of wielding the levers of power at the Capitol. He controls where members park, the size and location of their offices and how much money they can spend on their staffs. He also can increase, or decrease, their pay, by offering them myriad leadership posts.

Lawmakers have not had a raise since 1999, and Mr. Silver put down a rebellion in 2000, leaving those who remain in the Assembly, or who have been elected since, with diminished prestige and scant influence on the operations of the

chamber. ...

Members of the Assembly ‘fear the speaker more than they fear the voters,’ said Charmian Neary, a former legislative aide who brought a sexual harassment lawsuit against the Assembly two decades ago. She added, ‘With a 96 percent re-election rate for incumbents, they don’t have to worry about getting turned out of office.’ ...

Outsiders are still mystified..., “*Bad Week is Merely Bump for Assembly’s Master of Power*”, New York Times, May 20, 2013, Danny Hakim, Thomas Kaplan

The New York Post:

“You’d better not criticize Sheldon Silver if you know what’s good for you.

A Silver ally warned a GOP critic of the powerful Democratic Assembly speaker that she’d better stop her attacks — or else, The Post has learned.

Assemblywoman Deborah Glick (D-Manhattan) was overheard telling Republican colleague Nicole Malliotakis that there would be consequences if the GOPer kept calling for Silver to step down over the Vito Lopez sexual-harassment scandal.

‘You’ve been in the paper a lot talking about the speaker. You should quiet down before someone starts playing games with you,’ Glick told Malliotakis on the floor of the Assembly, according to a person who overheard the conversation...” “*Assemblywoman Glick overheard warning GOP colleague not to criticize Speaker Silver: ‘You should quiet down before someone starts playing games with you’*”, New York Post, June 25, 2013, Beth DeFalco

To the extent the Joint Commission on Public Ethics can render an advisory opinion to the Legislature about its rules³, we hereby request that it do so.

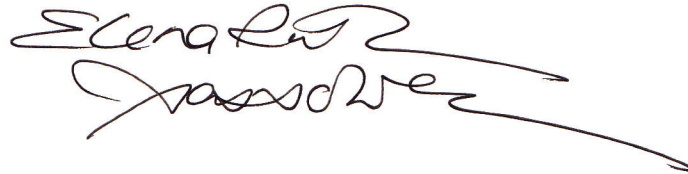
I would be pleased to testify under oath with respect to this ethics complaint, to answer your questions, and to furnish you with hard copies of any of the substantiating documents posted on our website.

³

Cf., Executive Law §94.9(j), authorizing the Joint Commission on Public Ethics to:

“Advise and assist any state agency in establishing rules and regulations relating to possible conflicts between private interests and official duties of present or former statewide elected officials and state officers and employees”.

Thank you.

A handwritten signature in black ink, appearing to read "Senator James D. Sanders". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Enclosure: CJA's April 15, 2013 corruption complaint to U.S. Attorney Bharara

cc: Governor Andrew Cuomo
Attorney General Eric Schneiderman
Comptroller Thomas DiNapoli
Temporary Senate President Dean Skelos
Assembly Speaker Sheldon Silver
Budget Director Robert Megna
All Senators & Assembly Members
U.S. Attorney Preet Bharara/Southern District of NY
U.S. Attorney Loretta Lynch/Eastern District of NY
U.S. Attorney Richard Hartunian/Northern District of NY
The Public & The Press



United States Attorney's Office
Southern District of New York
Civilian Crime Reports Unit
Criminal Division

Civilian Crime Report

The U.S. Attorney's Office represents the Government in legal proceedings and works closely with investigative agencies including the FBI. The Criminal Division of the United States Attorney's Office is charged with enforcing the federal criminal laws within the Southern District of New York, which encompasses: the boroughs of Manhattan and the Bronx, as well as Dutchess, Orange, Putnam, Rockland, Sullivan, and Westchester Counties.

Person Completing This Report:

Name: Elena Ruth Sassow
Center for
Judicial Accountability, Inc.
Address: Box 8101
White Plains
Address (Line 2): New York 10602
City, State, Zip: Westchester 914 455-4373
County, Phone

Person/Entity Being Complained About:

Name: NYS Governor Andrew Cuomo,
Temporary Senate President
Dean Skelos,
Address: Assembly Speaker Sheldon Silver
Chief Judge Jonathan Lippman
Address (Line 2): Attorney General Eric Schneiderman
City, State, Zip: Comptroller Thomas
DiNapoli
+ other constitutional
public officers their counsel
+ professional staffs

Although the volume of information we receive from concerned members of the public prevents us from responding individually to every Report, be assured that we will carefully consider the information you have provided us to determine whether there is a matter for this Office to investigate. If we determine that your Report raises a matter within the jurisdiction of this Office to investigate and that further information from you is necessary for our investigation, you will be contacted. This Office does not resolve individual consumer complaints.

NATURE OF ALLEGED CRIMINAL VIOLATION(S):

- Healthcare/Medicare Fraud
- Tax Fraud
- Terrorism/National Security
- Internet Fraud
- Public Corruption/Fraud/Waste
- Organized Crime
- Corporate Fraud
- Drugs
- Computer Crimes/Hacking
- Environmental Crime
- Human Trafficking (for sex or forced labor)
- Child Pornography/Exploitation
- Mortgage/Bank/Credit Card/ATM Fraud & Identity Theft
- Securities Fraud
- Other (please explain) _____

Does this Report Pertain to an Ongoing Case? Yes No Not Sure

If Yes, Please Provide the Following Case Information:

Case Title and Docket Number (if known):

Center for Judicial Accountability, Inc. et al
v. Andrew Cuomo, et al

Please clearly describe the violation of federal criminal laws that you would like to bring to our attention. Include as much information as possible, including the dates, places and nature of incident, and contact information for any witnesses (do not send original documents):

Grand Corerney of the Public Fisc +
other Corrupt Acts
see accompanying April 15, 2013 letter

Are You a Victim of this Alleged Crime?

Yes No Not Sure

Are You Aware of Any Other Victim(s)?

Yes No Not Sure

If Yes, Please List Other Victim(s): The People of the State of NY, etc.

Are You Represented by an Attorney in this Matter? Yes No

If Yes, Please Provide Attorney Contact Info:

Name: _____ Phone: _____

Address: _____

Have You Filed a Lawsuit Concerning this Matter? Yes No

If Yes, Please Provide the Following Case Information:

Case Title and Docket Number: Center for Judicial Accountability, Inc, et al
v. Cuomo, et al

Name and Address of Court: Supreme Court / New York County # 401988/2012

Status of Court Case (pending, dismissed, settled): pending

Have You Previously Filed a Report about this Matter with this Office or Any Other Federal, State or Local Agency(s)?

Yes No If Yes, Date Filed: 11/29/11

Contact Person: @ NYS Comptroller Agency: "Public Integrity Bureau"

Status of Previous Report: 3/1/12 unknown - pending "Investigations Unit" "does not warrant action by this office at this time"

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that all of the foregoing information is true, correct and complete to the best of my knowledge, information and belief.

Signature: Elena Curran Executed on this Date: April 15, 2013

IMPORTANT NOTE REGARDING THE PRESERVATION OF YOUR LEGAL RIGHTS:

Submitting a Report to this Office has no effect on any statute of limitation that might apply to any claim you may have. By submitting a Report to this Office you have not commenced a lawsuit or other legal proceeding, and this Office has not initiated an investigation or lawsuit regarding the subject of your Report. If you believe that your rights have been violated and you seek to sue for money or other relief, you should contact a private attorney.

Mail this completed report to: United States Attorney's Office
Southern District of New York
Attn: Civilian Crime Reports Unit (Criminal Division)
One St. Andrew's Plaza
New York, NY 10007

CENTER for JUDICIAL ACCOUNTABILITY, INC.*

Post Office Box 8101
White Plains, New York 10602

Tel. (914)455-4373

E-Mail: cja@judgewatch.org
Website: www.judgewatch.org

Elena Ruth Sassower, Director

U.S. ATTORNEY
SECURITY

BY HAND

April 15, 2013

Preet Bharara, U.S. Attorney for the Southern District of New York
One Saint Andrews Plaza
New York, New York 10007

ATT: Brendan McGuire, Chief, Public Corruption Unit

RE: Achieving “the Dream of Honest Government”:

(1) Criminal Complaint against NYS’ Highest Constitutional Officers for Grand Larceny of the Public Fisc and Additional Corrupt Acts – as, likewise, against NYS’ Other Constitutional and Public Officers and their Taxpayer-paid Counsel and Professional Staffs;

(2) Intervention in *Center for Judicial Accountability, et al. v. Andrew Cuomo, et al.* (NY Co. #401988/2012) & Transfer to the U.S. District Court, with Amendment of the Verified Complaint to Embody Additional Causes of Action and Supervening Facts, Including as to the Violations of Constitutional, Statutory, and Rule Provisions Underlying Passage of the NYS Budget for Fiscal Year 2013-2014 and Judiciary/Legislative Appropriations Bill S.2601-A/A.3001-A.

Dear Chief McGuire:

Following up my voice mail message for you on April 8th and our telephone conversation on April 9th, this is to reiterate that our nonpartisan, nonprofit citizens’ organization, Center for Judicial Accountability, Inc. (CJA), has been “step[ping] up to the plate” to achieve “the dream of honest government” for more than twenty years – and that, because of this,

- (1) we have the EVIDENCE to back up U.S. Attorney Bharara’s statements at his April 2nd and April 4th press conferences that governmental corruption in New York State is “pervasive” and “rampant” (4/2 prepared remarks, at p. 4; 4/4/ prepared remarks, at pp. 1, 4);

* **Center for Judicial Accountability, Inc.** (CJA) is a national, non-partisan, non-profit citizens’ organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

- (2) we have the EVIDENCE to answer, by a resounding YES, the U.S. Attorney's question as to whether "items in the budget" were tainted by corruption (4/4 prepared remarks, at p. 5);
- (3) we have the EVIDENCE to establish that "the most powerful special interest in politics is self-interest" (4/2 prepared remarks, at p. 4);
- (4) we have the EVIDENCE to prove "the deafening silence of the many individuals...who learned of...criminal activity being conducted in the...Capitol and elsewhere, and...said nothing. No one made a call. No one blew the whistle. No one sounded the alarm." (4/4 prepared remarks, at p. 5);
- (5) we have the EVIDENCE to reinforce the necessity that the U.S. Attorney not back down from his pledge: "we will continue pursuing and punishing every corrupt official we find" (4/2 prepared remarks, at p. 4).

All this EVIDENCE is here presented in support of this criminal complaint against New York's highest constitutional officers in the state's three government branches – Governor Andrew Cuomo, Attorney General Eric Schneiderman, and Comptroller Thomas DiNapoli in the executive branch, Temporary Senate President Dean Skelos and Assembly Speaker Sheldon Silver in the legislative branch, and Chief Judge Jonathan Lippman in the judicial branch. Together with the government branches, these constitutional officers are each named defendants, sued for corruption and collusion against the People, in the lawsuit *Center for Judicial Accountability, et al. v. Andrew Cuomo, et al.*, which we have brought "on behalf of the People of the State of New York & the Public Interest".

The allegations of the verified complaint chronicle a complete breakdown of constitutional checks and balances by the constitutional and public officers of New York's three government branches with respect to EVIDENCE of systemic corruption of the processes of judicial selection, judicial discipline, and of the judicial process itself – culminating in their collusion in a scheme to raise judicial salaries through the artifice of a special commission on judicial compensation that would thereafter be the model for achieving legislative and executive salary raises.

The most important exhibit to the verified complaint is CJA's October 27, 2011 Opposition Report to the August 29, 2011 "Final Report" of the Special Commission on Judicial Compensation, demonstrating that its recommendation to raise judicial salaries 27% over three years was fraudulent, unconstitutional, and, on its face, flagrantly violative of the EXPRESS statutory prerequisites of Chapter 567 of the Law of 2010 for a judicial salary raise recommendation. Based thereon, the Opposition Report called upon Governor Cuomo, Temporary Senate President Skelos, Assembly Speaker Silver, and Chief Judge Lippman – the Commission's four appointing authorities to whom the Opposition Report was addressed – to take steps to protect the People of New York. These steps were identified, on the cover of the Opposition Report, as:

- (1) “Legislation Voiding the Commission’s Judicial Pay Recommendations;
- (2) Repeal of the Statute Creating the Commission;
- (3) Referral of the Commissioners to Criminal Authorities for Prosecution;
- (4) Appointment of a Special Prosecutor, Task Force, and/or Inspector General to Investigate the Documentary and Testimonial Evidence of Systemic Judicial Corruption, Infesting Supervisory and Appellate Levels and the Commission on Judicial Conduct – which the Commission on Judicial Compensation Unlawfully and Unconstitutionally Ignored, Without Findings, in Recommending Judicial Pay Raises.”

That the Governor, Temporary Senate President, Assembly Speaker, and Chief Judge were duty-bound to take all these requested steps, possibly excepting repeal of the statute, is evident from the most cursory examination of CJA’s October 27, 2011 Opposition Report, furnishing a devastating background history and virtual line-by-line analysis of the Commission’s August 29, 2011 “Final Report”. Yet, there was no response from any of these highest constitutional officers – lawyers all, each with ample lawyers on their taxpayer-paid staff. Likewise, four months later, they did not respond to our March 2, 2012 letter to them¹, requesting that they disclose their findings of fact and conclusions of law with respect to the Opposition Report and that they take action, consistent therewith, to protect the People of New York and the public purse from the statutorily-violative, fraudulent, and unconstitutional judicial pay raises, whose first phase was scheduled to take effect on April 1, 2012.

As for Attorney General Schneiderman, to whom we had furnished the Opposition Report on November 29, 2011, with a complaint based thereon to his “Public Integrity Bureau”, he also did not respond to the March 2, 2012 letter, to which he was an indicated recipient. Nor was there any response from Comptroller DiNapoli, also an indicated recipient of the letter, and to whose “Investigations Unit” we had filed a complaint on March 1, 2012. Both complaints were against the Commission on Judicial Compensation for fraud:

“effectively stealing from the People of New York hundreds of millions of taxpayer dollars, while depriving them of the means afforded by the New York State Constitution for securing judicial accountability.”²

¹ The March 2, 2012 is Exhibit Q in the compendium of exhibits to the verified complaint.

² Copies of these two complaints were annexed to our March 2, 2012 letter, with footnote 1 reciting the disposition of our complaint to Attorney General Schneiderman’s “Public Integrity Bureau”. As for our complaint to Comptroller DiNapoli’s “Investigations Unit”, we never received any notification of its disposition.

As a result, our unfunded citizens' organization was burdened with the effort and expense of bringing the lawsuit *CJA v. Cuomo*, which we did on March 30, 2012, in Supreme Court/Bronx County, accompanied by an order to show cause for a preliminary injunction, with TRO, to stay the first phase of the judicial pay raises, which would otherwise take effect on April 1, 2012.

The record of *CJA v. Cuomo* is posted on our website, www.judgewatch.org, from which you can see the corrupt course of what transpired both before and after the case was transferred to Supreme Court/New York County, where, as of this date, more than five-and-a-half months after we filed with New York County Clerk Norman Goodman a complaint of record tampering and official misconduct by court personnel and more than two months after filing with the Unified Court System Inspector General Sherrill Spatz a complaint against Clerk Goodman for obstructing justice and collusion with record tampering, we have yet to receive a written disposition of either complaint.

By reason thereof, the first phase of the judicial pay raises took effect on April 1, 2012. Its cost to New York taxpayers for fiscal year 2012-2013 was purported to be \$27.7 million for the judicial salary increases. This does not include the indeterminate millions of dollars for increases in district attorney salaries and county clerk salaries because of their statutory link to judicial salaries. Nor does it include increased costs of "fringe benefit" for the judges, district attorneys, and county clerks – these being pensions, social security, etc. This \$27.7 million, plus unknown millions more, is now replicated in fiscal year 2013-2014 – on top of which is the second phase of the judicial pay raise, which took effect on April 1, 2013, whose cost is purported to be another \$8.2 million for increased judicial salaries, again, not including the indeterminate millions in related costs. The total imposition on taxpayers for these two fiscal years is upwards of \$70 million and will exceed \$100 million by the end of fiscal year 2014-2015, if the third phase of the judicial salary increase takes effect on April 1, 2014. Because of the non-diminution clause of the New York State Constitution, Article VI, §25a, the cumulative cost of this three-phase judicial salary raise – with all its related costs – will be an annually recurring imposition on New York taxpayers, in perpetuity, unless voided by a court in a lawsuit, such as *CJA v. Cuomo*.

So that you can appreciate how many of New York's constitutional and public officers – and their taxpayer-paid counsel and professional staff – are complicit in this massive and perpetually recurring grand larceny of the public fisc, our website chronicles our exhaustive efforts, apart from the lawsuit, to "Securing Legislative Oversight & Override of the second and third phases of the judicial pay raises" by a webpage of that name, accessible *via* our top panel "Latest News". Among these other larcenous constitutional and public officers are Budget Director Robert Megna, Chief Administrative Judge Gail Prudenti, and Senators and Assembly Members in leadership positions: Senate Majority Coalition Leader Jeffrey Klein, Senate Minority Leader Andrea Stewart-Cousins, Assembly Minority Leader Brian Kolb, Senate Finance Committee Chair John DeFrancisco, Senate Finance Committee Ranking Member Liz Krueger, Assembly Ways and Means Committee Chair Herman Farrell, Jr., Assembly Ways and Means Committee Ranking Member Robert Oaks, Senate Judiciary Committee Chair John Bonacic, Senate Judiciary Committee Ranking Member John Sampson, Assembly Judiciary Committee Chair Helene Weinstein, and Assembly Judiciary Committee Ranking Member Tom McKeivitt.

The “Securing Oversight & Override” webpage posts the primary-source materials evidencing what took place:

In the week and a half preceding the February 6th Senate and Assembly joint budget hearing on “public protection”, I wrote Chief Judge Lippman (*via* Chief Administrative Judge Prudenti), Temporary Senate President Skelos and Assembly Speaker Silver, Governor Cuomo, and Attorney General Schneiderman and Comptroller DiNapoli, identifying that I would be testifying about CJA’s Opposition Report and verified complaint and calling upon them to themselves testify about them and produce their findings of fact and conclusions of law with respect thereto. All this correspondence was sent to the chairs and ranking members of the four committees having direct oversight over the Judiciary budget – the Senate Finance Committee, the Assembly Ways and Means Committee, the Senate Judiciary Committee, and the Assembly Judiciary Committee – with a letter to them reiterating a request I had made in phone calls to them two weeks earlier, *to wit*, that their committees review the Opposition Report and verified complaint in advance of the February 6th hearing – as these were dispositive of the Legislature’s duty to override the second phase of the judicial salary increase – and that they notify Chief Administrative Judge Prudenti “to come to the hearing prepared to discuss the particularized showing of unconstitutionality, statutory violations, and fraud presented by the Opposition Report – if not by the four causes of action of the *CJA v. Cuomo* verified complaint based thereon”, as they would be interrogating her extensively with respect thereto, and that they would also invite Chief Judge Lippman to also be present at the hearing to address same.

There was no response from any of them to these letters – including at the February 6th hearing, where Chief Administrative Judge Prudenti, unaccompanied by Chief Judge Lippman, made no mention of the Opposition Report and verified complaint and was not questioned about them. Nor was I questioned about them when I testified, handing up CJA’s Opposition Report, verified complaint, and that correspondence.

The video and witness list for the February 6th hearing are posted on the “Securing Oversight & Override” webpage. As reflected therein, Chief Administrative Judge Prudenti was scheduled to be the first witness. I was scheduled to be the last. By the time I testified, nearly 7-1/2 hours after the hearing had begun, most legislators were gone, the press was gone, and virtually no one remained in the audience. In the ten minutes that were permitted for my testimony, I presented opposition not only to the judicial pay raises, but to the whole of the Judiciary budget based on its lack of requisite itemizations, including with respect to the second phase of the judicial salary increase whose dollar amount was nowhere identified.

Thereafter, I endeavored to ascertain who at the fiscal and judiciary committees was reviewing my document-supported testimony and when their findings of fact and conclusions of law would be made public with respect thereto. There was no answer. Nor did these four committees ever render any committee report with respect to the February 6th hearing so that the votes of the Senators and Assembly Members not present at the hearing might be informed by what I had presented. Indeed, without the committees even voting on the Judiciary budget and its appropriations bill, the bill –

S.2601/A.3001 – combined in the same bill as appropriations for the Legislature, was passed onto the Senate and Assembly and embodied in resolutions establishing a Joint Budget Conference Committee.

As a result of this violation of any cognizable “process”, I was burdened with contacting all members of the Joint Budget Conference Committee, its Subcommittee on “Public Protection”, Criminal Justice, and Judiciary, and ultimately all members of the Senate and Assembly to alert them to the nature and significance of my February 6th opposition testimony and the absence of “process” in the form of a committee report and vote.

These alerts, embodied by my correspondence, chronicle the flagrant nonfeasance and misfeasance by Senators, Assembly members, and their taxpayer-supported professional staff. Over and beyond their willful and deliberate disregard of CJA’s Opposition Report and verified complaint – whose accuracy and dispositive nature they did not deny or dispute in any respect – and their equally willful and deliberate disregard of our showing that the Judiciary appropriations bill was a veritable “slush fund”, they blithely trampled on a succession of constitutional, statutory, and rule provisions to achieve its passage and that of other budget appropriations bills.

On March 29th, with the budget passed, I wrote to the Governor’s Chief of Staff, urging that the Governor NOT sign the Judiciary/Legislative appropriations bill, S.2601-A/A.3001-A. In pertinent part, I stated:

“it is essential that the Governor take steps to protect the public purse from judicial salary increases he KNOWS to be statutorily-violative, fraudulent, and unconstitutional, as would be evident were he to disgorge such findings of fact and conclusions of law as he made – or as were made on his behalf by...counsel – with respect to CJA’s October 27, 2011 Opposition Report and the four causes of action of our public interest lawsuit based thereon – *CJA, et al. v. Cuomo, et al.*

Please be advised – and I hereby give notice – that the Legislature’s passage of the budget for fiscal year 2013-2014 violated express constitutional and statutory safeguards and its own rules – particularly its passage of Judiciary appropriations bill S.2601-A/A.3001-A – the same bill as contains the Legislature’s appropriations.

To the extent you are unaware of these violations, we have steadily chronicled them, since February 6th, by the primary-source materials posted on our website, www.judgewatch.org, on the webpage devoted to Securing Legislative Oversight & Override of the judicial pay raises...’. Increasingly, these have pertained to violations affecting not only S.2601-A/A.3001-A, but the entire budget. Our new webpage ‘Holding Government Accountable for its Grand Larceny of the Public Fisc’, which...I have been constructing since I got up this morning to aid the Governor in understanding the situation, showcases these violations no less prominently. Both webpages are accessible *via* the ‘Latest News’ top panel of our website. Here’s the direct link: <http://www.judgewatch.org/web-pages/cja/latest-news.htm>.” (March 29th letter, at pp. 1-2, capitalization & underlining in original).

This March 29th letter then identified posted materials from which the Governor could ascertain his “duty to New York’s citizens and taxpayers NOT to sign S.2601-A/A.3001-A”, further pointing out that among the “must-read” posted correspondence was “CJA’s March 11th letter, summarizing and elaborating upon my testimony at the Legislature’s February 6th budget hearing on ‘public protection’”, that this March 11th letter had been enclosed with our March 19th letter to the Governor to which we had received no response – and that the title of the March 19th letter had been:

“Assisting the Legislature in Discharging its Constitutional Duty: The People’s Right to Know the Dollar Cost of the Judiciary Budget & of the Appropriations Bill for the Judiciary & to be Protected from ‘Grand Larceny of the Public Fisc’ by Unidentified, Unitemized Judicial Pay Raises, whose Fraudulence, Statutory-Violations, and Unconstitutionality are *Proven by Documentary Evidence in Your Possession & the Legislature’s*” (underlining & italics in March 19th letter).

The March 29th letter concluded with a final request:

“In view of the serious and substantial nature of this letter and its political and other ramifications for the Governor, kindly furnish it to him, without delay.” (at p. 3, underlining in the original).

Notwithstanding the March 29th letter was e-mailed to the Governor’s Executive Chamber in the early morning hours of March 30th – and then, again, later in the day on March 30th – we received no response from the Governor’s office. Instead, on April 2nd, Governor Cuomo went on an upstate tour to promote and ceremonially sign the budget, repeating his long-standing rhetoric that an on-time budget, the third in a row, shows that our state “government is working and is working for you”.

Thereupon, with U.S. Attorney Bharara’s April 2nd announcement of the charges against Senator Malcolm Smith and others, Governor Cuomo engaged in further deceit, proclaiming during his upstate budget tour to the press, “We have zero tolerance for any violation of the public integrity and the public trust”. As the foregoing demonstrates, the truth is just the opposite. The Governor has 100% tolerance for the most flagrant corruption and abuse of the public trust, of which he himself, in collusion with other public officers, is an active participant.

CJA’s newest webpage “Holding Government Accountable for its Grand Larceny of the Public Fisc” takes the EVIDENCE posted on our webpage “Securing Legislative Oversight & Override of the...judicial pay raises” and reformats it as EVIDENTIARY EXHIBITS for a criminal complaint.

That criminal complaint must begin with New York’s highest constitutional officer, Governor Cuomo. Indeed, following the Governor’s hypocritical “zero tolerance” claims – and the inspiring statements of U.S. Attorney Bharara at his April 2nd and 4th press conferences about cleaning up New York State government and his determination to investigate and prosecute corrupt public officials – I modified the “Holding Government Accountable for its Grand Larceny of the Public Fisc” webpage to be a presentation to the U.S. Attorney in support of this criminal complaint, stating:

“Here’s the evidence, U.S. Attorney Bharara:

Let’s start at the top – with Governor Cuomo, who colluded with the Legislature in rewarding a systemically corrupt Judiciary with a slush-fund budget whose unidentified, unitemized funding includes statutorily-violative, fraudulent & unconstitutional judicial salary increases”

So dispositive is the EVIDENCE posted on this webpage – and none more so than the documents I handed up at the February 6th budget hearing: (1) CJA’s October 27, 2011 Opposition Report and its Executive Summary; (2) the March 30, 2012 verified complaint in *CJA v. Cuomo*; and (3) CJA’s correspondence with the three government branches in the week and a half preceding the February 6th hearing – that there is no need for U.S. Attorney Bharara to embark upon any of the “aggressive and creative tool[s]” to which he referred at the April 4th press conference:

“wiretaps and confidential informants and undercover agents and stings. And, yes, seeking the cooperation of elected officials who can help us investigate and prosecute their own corrupt colleagues”.

Here presented is an open-and-shut case. A simple subpoena to our highest constitutional officers for their records with respect to these documents and CJA’s communications and correspondence with them thereafter will suffice to indict and convict them for grand larceny of the public fisc and other crimes against the People.

Similar subpoenas will also suffice to indict and convict a huge number of other constitutional and public officers and their counsel and professional staffs who were duty-bound to make findings of fact and conclusions of law with respect to the October 27, 2011 Opposition Report, and/or to take steps to secure the findings of fact and conclusions of law of the Governor, Temporary Senate President, Assembly Speaker, Chief Judge, Attorney General, and Comptroller – but did not do so because, as they knew, it would require, at very minimum, that they protect the public purse from judicial pay raises that flagrantly violate Chapter 567 of the Laws of 2010 – their only legal basis – quite apart from being fraudulent and unconstitutional.

That is not to say that U.S. Attorney Bharara might not also use his referred-to “aggressive and creative tool[s]” – including offering immunity to the formerly high-ranking Senator Smith in exchange for his testimony against fellow legislators pertaining to the corruption chronicled by the *CJA v. Cuomo* verified complaint and by such subsequent correspondence as our December 7, 2012 letter to the Independent Democratic Conference, which Senator Smith had joined. Entitled “ACHIEVING A FISCALLY RESPONSIBLE, FULLY FUNCTIONAL SENATE”, this December 7, 2012 letter called upon the Independent Democratic Conference members to repudiate their “historic partnership” with a Republican Conference under Senator Skelos based upon the documented allegations of the *CJA v. Cuomo* verified complaint, which we stated “would easily support a criminal prosecution of him for official misconduct and criminal fraud upon the taxpaying public” (at p. 2). In substantiation, we asked them to secure from Senator Skelos such findings of fact and conclusions of law as he or Senate counsel made with respect to our October 27, 2011

Opposition Report, stating, “This will give you all the evidence necessary to repudiate, as you must, any partnership with a Senate Republican conference having Senator Skelos as its head”. The letter further requested that they initiate legislative override of the second and third phases of the judicial pay raises by referring the evidence of unconstitutionality, statutory violations, and fraudulence to all relevant Senate committees for discharge of their oversight responsibilities, consistent with Senate rules, further urging that they advance reform of Senate rules, consistent with the non-partisan, good-government recommendations of the 2009 Temporary Senate Committee on Rules and Administration Reform, a signal achievement of Senator Smith’s tenure as Senate Majority Leader.³

As discussed, it is ESSENTIAL that U.S. Attorney Bharara not back down from his pledge to “continue to pursue and to punish every corrupt official we can find”. Only by so doing – and by bringing to justice corrupt officials at the highest levels who are the example for the rest – can “the dream of honest government” ever be realized.

I look forward to meeting with you and U.S. Attorney Bharara, to furnishing further substantiating documents, including fax and e-mail receipts, to answering your questions, testifying under oath – and to providing you names of the many, many victims of this state’s systemically and pervasively corrupt judicial system, who can furnish you with documentary and testimonial evidence of their own. Meantime, I refer you to the testimony given by a succession of witnesses at the Senate Judiciary Committee’s aborted 2009 hearings on the Commission on Judicial Conduct and court-controlled attorney disciplinary system, as to which, to date, there has been no investigation, no findings, no committee report. Such state of affairs – and its significance to the judicial pay raise issue – is focal to our Opposition Report (pp. 3-4, 11-12, 19 (fn. 25) and verified complaint (¶¶31-50, 52-55, 62-67, 74-81, 86-88, 94, 98, 106-108, 133, 135(e), 152-153, 160-162), each identifying that the videos and transcripts of those hearings are accessible *via* the “Latest News” top panel of CJA’s website.⁴


³ The December 7, 2012 letter is enclosed herewith, together with our follow-up December 21, 2012 letter to the Independent Democratic Conference, entitled “What is Your Response to CJA’s December 7, 2012 Letter?” These two letters were, thereafter, furnished to all Senators. That correspondence and our comparable correspondence to Assembly members are accessible *via* our “Latest News” webpage, by the hyperlink entitled “CJA’s championing of appropriate rules and leadership for the New York State Legislature”.

As I further identified when we spoke, Senator Smith had been Ranking Member of the Senate Judiciary Committee during Senator DeFrancisco’s chairmanship of the Senate Judiciary Committee years earlier. His participation at a March 17, 2003 meeting with Senator DeFrancisco, at which I provided each of them with the final two motions from CJA’s public interest lawsuit against the Commission on Judicial Conduct, documenting how New York Courts, including the Court of Appeals, had corrupted the judicial process to protect a corrupt Commission on Judicial Conduct, is recounted at ¶39 of the *CJA v. Cuomo* verified complaint. These two final motions are the same as I handed up at the February 6th budget hearing because – like the October 27, 2011 Opposition Report – they are free-standing exhibits to the *CJA v. Cuomo* verified complaint.

⁴ As stated in footnote 7 of the Opposition Report (at p. 3):

In addition to the criminal complaint herein initiated, we also request the U.S. Attorney's intervention in *CJA v. Cuomo* and his transfer of the case to the U.S. District Court, with appropriate amendment of the verified complaint to include additional causes of action and supervening facts, such as the violations of constitutional, statutory, and rule provisions underlying passage of the state budget for fiscal year 2013-2014 and Judiciary/Legislative appropriations bill S.2601-A/A.3001-A.

Thank you.



See next page for enclosures & cc's

“These Senate Judiciary Committee hearings, held on June 8, 2009 and September 24, 2009, were each videoed and stenographically recorded by the Committee. CJA’s website posts both the videos and stenographic transcripts, accessible *via* the top panel ‘Latest News’ and left side panel ‘Judicial Discipline-State-NY’.

Most immediately germane to the judicial compensation issue is the testimony of Regina Felton, Esq. at the September 24, 2009 hearing, as the judge against whom she filed numerous judicial misconduct complaints with the Commission on Judicial Conduct, all dismissed, was a co-petitioner in one of the [judges’] judicial compensation lawsuits [*Maron, et al. v. Silver, et al.*].

Other important testimony involving the Commission on Judicial Conduct’s dismissal of facially-meritorious, documented judicial misconduct complaints is that of James A. Montagnino, Esq. (at the June 8, 2009 hearing), Nora Drew Renzulli, Esq. (at the September 24, 2009 hearing), Pamela Carvel (at the June 8, 2009 hearing), and Catherine Wilson (at the September 24, 2009 hearing).” (underlining in the Opposition Report).

Additionally notable is the testimony (at the June 8, 2009 Senate Judiciary Committee hearing) of William Galison – and all the more so as he filed with you an April 3, 2013 criminal complaint of “Fraud in the Nomination and Confirmation of New York Chief Judge Jonathan Lippman by Members of the New York State Judiciary Committee”. Such criminal complaint – and documents substantiating it – are accessible from CJA’s website, including from our webpage for the Senate Judiciary Committee’s 2009 hearings on the Commission on Judicial Conduct and attorney disciplinary system, containing a hyperlinked webpage for Mr. Galison. That hyperlinked webpage additionally posts the videos of the Senate Judiciary Committee’s February 11, 2009 hearing on Chief Judge Lippman’s confirmation, as well as its June 5, 2009 hearing on “merit selection” to the New York Court of Appeals – at which Mr. Galison and I both testified.

Mr. Galison also testified at the Commission on Judicial Compensation’s July 20, 2011 hearing. However, that video is not available as the Commission removed it from its website shortly before it issued its August 29, 2011 “Final Report”, presumably because of the significance of my testimony and the exchange between myself and the Commission’s chairman, who refused to address the threshold issue of his disqualification, which I had raised.

The *CJA v. Cuomo* verified complaint references Mr. Galison at ¶¶63 and 86.

- Enclosures: (1) Documents handed up at February 6th budget hearing in support of testimony
-- March 30, 2012 verified complaint in *CJA v. Cuomo*, with compendium & free-standing exhibits, including:
CJA's October 27, 2011 Opposition Report, with Executive Summary
-- CJA's correspondence with three gov't branches: January 29th – February 5th
- (2) CJA's March 19, 2013 letter to Governor Cuomo, with enclosures
(3) CJA's March 29, 2013 letter to Governor Cuomo
(4) CJA's December 21, 2012 letter to Independent Democratic Conference, enclosing December 7, 2012 letter

cc: Senator Malcolm Smith
The Complained-Against Constitutional & Public Officers, Counsel & Professional Staff
The Public & Press