

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Monday, July 18, 2022 4:14 PM
To: 'investigations@osc.ny.gov'
Subject: **Comment on Comptroller DiNapoli's proposed nomination of Nancy Groenwegen, Esq. to the Commission on Ethics & Lobbying in Government - & for the ATTENTION of General Counsel Nelson Sheingold**

TO: Comptroller Thomas DiNapoli

BELOW is the message already sent to you, *via* your website portal, <https://www.osc.state.ny.us/Comptroller-s-Ethics-Commission-Nominee>, at 4:06pm today.

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Your proposed nominee to the Commission on Ethics and Lobbying in Government, Nancy Groenwegen, Esq., is utterly unfit for any position of public trust. Indeed, she must be criminally prosecuted for her corruption, as your general counsel, aiding and abetting your corruption in office, involving the New York State budget and the “false instrument” pay raises it embeds – the subject of three lawsuits the Center for Judicial Accountability brought against you, during *her* tenure – and which, because she had NO legitimate defense to the EVIDENCE they furnished of massive larceny of taxpayer monies, she outsourced to the New York State Attorney General to do the dirty work of corrupting the judicial process by litigation fraud so that the lawsuits could be “thrown” by fraudulent judicial decisions of New York judges.

You are well familiar with those three lawsuits – each bearing the abbreviated caption, *CJA, et al. v. Cuomo et al.* – a declaratory judgment action, commenced in [2012](#), and two citizen-taxpayer actions, commenced in [2014](#) and [2016](#) – not the least reason because I testified before you about them at the [November 30, 2018 public hearing of the Committee on Legislative and Executive Compensation](#), of which you were unconstitutionally a member. At that time, I handed up a hard copy of the appeal brief and the three-volume record on appeal in the culminating second citizen-taxpayer action to prove that “the budget is off the constitutional rails, is rife with constitutional violations, statutory violations, rule violations...”, the unconstitutionality, unlawfulness, and fraud of the “force of law” commission-based judicial pay raises the budget embeds, and that the Committee on Legislative and Executive Compensation had “nowhere to go” with its own “force of law” legislative and executive pay raise recommendations.

Upon information and belief, Ms. Groenwegen, your general counsel from December 2010 to February 2019, was also well familiar with the lawsuits – and the double-whammy of fraud by the Attorney General and judges that were torpedoing them. Indeed, on May 7, 2014, I spoke with her directly by phone – and the particulars are set forth by [my May 16, 2014 affidavit in the first citizen-taxpayer action](#), as follows:

“32. By Wednesday, May 7, 2014, having heard nothing further from the Attorney General or Comptroller – I followed up with phone calls to bring to their specific attention Rule 5.1 of New York’s Rules of Professional Conduct regarding the responsibilities of supervisory lawyers for the misconduct of subordinates. I left an

extensive message for Deputy Attorney General Levine with her legal assistant, Ann Fisher, requesting oversight of AAG Kerwin, withdrawal of her dismissal motion, and an answer as to who was independently evaluating ‘the interest of the state’ and plaintiffs’ entitlement to the Attorney General’s representation pursuant to Executive Law §63.1 and State Finance Law, Article 7-A. Ms. Fisher told me that I should put my concerns in writing, but refused to furnish me with an e-mail address. I then called the Comptroller’s office and spoke with Comptroller Counsel Groenwegen’s executive assistant, Tory Wilson. Again, I was routed to AAG Kerwin. This time, AAG Kerwin picked up her phone – and put me on speakerphone, acknowledging that she shares an office with AAG McGowan, who was present and also listening to what I had to say about her fraudulent dismissal motion. Again, I identified the duty of supervisory attorneys pursuant to Rule 5.1 of the Rules of Professional Conduct and reiterated my long-standing request to know who was evaluating plaintiffs’ entitlement to representation pursuant to both Executive Law §63.1 and State Finance Law Article 7-A. During my conversation, Comptroller Counsel Groenwegen phoned – and I took her call immediately.

33. Counsel Groenwegen acknowledged that she had read the verified complaint I had served upon the Comptroller, *via* Deputy Counsel Fanshawe, on March 28, 2014 and, additionally, that she had seen AAG Kerwin’s dismissal motion. She did not deny or dispute any aspect of what I described to her about the fraudulence of the dismissal motion, but refused to recognize any responsibility under Rule 5.1 of the Rules of Professional Conduct to take corrective steps to secure its withdrawal – or to re-evaluate the propriety of the Comptroller being represented by an Attorney General who was corrupting a statutory safeguard for protecting the public fisc – State Finance Law Article 7-A. Her position was that we have ‘independent courts’ and I should just set it all forth in my opposition papers. In so stating, she refused to acknowledge that this case involves judicial self-interest by its challenge to the judicial pay raises – and did not deny her familiarity with CJA’s October 27, 2011 Opposition Report and the verified complaint in *CJA v. Cuomo* / based thereon – documents I had personally served on the Comptroller’s office in Albany in April 2012.”

Suffice to add – and as reflected by that May 16, 2014 affidavit (at ¶¶22, 31) and its [Ex. AA-4 e-mail](#) – Counsel Groenwegen was also fully aware that on April 2, 2014 I had made an oral complaint, by phone, to the fraud/investigations unit of the Comptroller’s office, which, in the absence of any response, I then followed with a [May 2, 2014 written complaint](#), reading:

“On April 2, 2014, I telephoned your fraud hotline number, 1-888-672-4555, and spoke with Investigator Frank Smith. I summarized for him a complaint of grand larceny of the public fisc and taxpayer dollars pertaining to Governor Cuomo’s Budget Bill #S.6351/A.8551, whose particulars and substantiating proof I stated were furnished by the verified complaint in a citizen-taxpayer action, Center for Judicial Accountability, Inc., et al. v. Cuomo, et al. (Albany Co. #1788-14), served upon Comptroller DiNapoli, a named defendant, on March 28, 2014, with service accepted by Deputy Counsel Helen Fanshawe. I further stated that the fraud investigations unit could easily examine the lawsuit papers from the Center for Judicial Accountability’s website, www.judgetwch.org, posted on a webpage accessible via the homepage link ‘CJA Leads the Way to NYS Budget Reform...’

I have received no follow-up from the Comptroller's office -- & today telephoned the fraud hotline number, leaving a voice mail message, inquiring about my month-old complaint. Please give the attached e-mail to the Comptroller."

Ms. Groenwegen took no steps to ensure that these fully-documented oral and written complaints of "grand larceny of the public fisc and taxpayer dollars" – for which the [March 28, 2014 verified complaint in CJA's first citizen-taxpayer action](#) was an easy-to-follow roadmap – did not fall into a "black hole" – and this is exactly what happened, repeating what had happened to my prior [March 1, 2012 written complaint to your fraud/investigations unit](#), also during *her* tenure as your general counsel, necessitating, 29 days later, CJA's declaratory judgment action, commenced by a [March 30, 2012 verified complaint](#).

For your convenience, this comment in opposition to Ms. Groenwegen, with hyperlinks to the referred-to substantiating EVIDENCE, is being [e-mailed to your fraud/investigations unit](#) – and, specifically, to the attention of your current general counsel, [Nelson Sheingold, who you appointed to succeed Ms. Groenwegen](#) and who, prior thereto, was your counsel for investigations since 2011. According to your [organizational chart](#), "Investigations" and "Legal Services" are overseen by the general counsel.

There is much I wish to say to Mr. Sheingold – and I request that he call me, so that we can speak directly, including about CJA's latest lawsuit against you pertaining to the budget and pay raises, [CJA, et al. v. JCOPE, et al.](#), commenced during *his* tenure as your general counsel, by a [June 6, 2022 verified petition/complaint](#), which I served upon you on June 23, 2022, by hand-delivery to your Albany Office, and whose ¶15 identifies that you are an appointing authority of the new Commission on Ethics and Lobbying in Government and that two of my seven complaints to JCOPE involving the budget and pay raises – my [June 27, 2013 complaint \(Ex. G\)](#) and my [March 5, 2021 complaint \(Ex. D\)](#) – are specifically against Comptroller DiNapoli.

In the meantime, I request that Mr. Sheingold evidentiarily substantiate his unsworn testimony at the [December 9, 2021 Senate hearing on "New York State's system of ethics oversight and enforcement"](#) by some genuine transparency and accountability, beginning with what became of my March 1, 2012 and May 2, 2014 written complaints to your fraud/investigations unit – and that he explain why, with respect to CJA's three lawsuits against you during Ms. Groenwegen's tenure as general counsel and now this fourth lawsuit against you during his tenure – no referrals to criminal authorities have been made by you, including to the Attorney General pursuant to Executive Law §63.3, about which Mr. Sheingold spoke at length at the December 9, 2021 hearing, in response to questioning by Senate Committee on Ethics and Internal Governance Chair Alessandra Biaggi ([video at 37:30 mins. – 44:40 mins.](#); [transcript pp. 38-46](#)).

Thank you.

Elena Sassower, Director
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