

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>
Sent: Monday, July 18, 2022 2:07 PM
To: 'Ortt@nysenate.gov'
Subject: **Comment on Senate Minority Leader Ortt's proposed nomination of Gary Lavine, Esq. to the Commission on Ethics & Lobbying in Government**

TO: Senate Minority Leader Robert Ortt

BELOW is the message already sent to you, *via* your website portal, <https://www.nysenate.gov/questionnaires/robert-g-ortt/senate-minority-leaders-nominee-commission-ethics-lobbying-public>, at 2:04 pm today.

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Your proposed nominee, Gary Lavine, Esq., should have informed you of what you should already know: that the high praise you have given to him by your July 12th announcement "[Senate Minority Leader Rob Ortt Names Gary Lavine to New State Ethics Commission](#)", posted in the "[newsroom](#)" of your [Senate website](#), is complete fraud, beginning with your subtitle "He stands for ethics and integrity, 100%, said Leader Ortt".

Are you unaware of Mr. Lavine's corruption as a JCOPE member throughout the decade-plus of JCOPE's existence, from its inception in December 2011 to its demise in July 2022, which he directly caused and contributed to. Do you not know – and did he not tell you – of the [Center for Judicial Accountability's lawsuit against JCOPE](#), to which the Senate is a respondent/defendant? The lawsuit's [June 6, 2022 verified petition/complaint](#) not only chronicles JCOPE's corruption, but, at ¶¶17, 38, 39, establishes that Mr. Lavine, with JCOPE Chair Jose Nieves, and three other commissioners – all attorneys, like Mr. Lavine – were, throughout the prior three months, directly knowledgeable of, and collusive participants in, the violations of mandatory duties and fraud giving rise to the lawsuit. Here is the list of my e-mails to which, beginning on February 28, 2022, Mr. Lavine was cc'd – and to which the lawsuit petition refers and links:

- [my February 28, 2022 e-mail](#);
- [my March 4, 2022 e-mail](#);
- [my March 17, 2022 e-mail](#);
- [my April 13, 2022 e-mail](#);
- [my May 6, 2022 e-mail](#);
- [my May 16, 2022 e-mail](#).

Thereafter, subsequent to the lawsuit's commencement, I sent Mr. Lavine and the others a [June 9, 2022 e-mail](#) and [June 21, 2022 e-mail](#), each furnishing the [NYSCEF link to the lawsuit record](#), starting with the June 6, 2022 petition, whose first seven exhibits are my complaints to JCOPE since 2013, all involving pay raises, the state budget, and the collusion of NYS' executive, legislative, and judicial public officers – at their highest levels – in larcenous and unconstitutional state governance.

One need only compare the aforesaid eight e-mails, sent to and received by Mr. Lavine, with his statements and conduct at JCOPE's public meetings during this period to see what a brazen, self-

aggrandizing, deceitful, posturer he has been – and not only as to himself. Evidence, for example, his *sua sponte* praise of Chair Nieves at the outset of [JCOPE's last regularly-scheduled meeting, on June 28th](#):

"Mr. Chairman...if I may, at this juncture, I want to express to you congratulations and, I hope I can speak for every commissioner who has served under your aegis. Congratulations to you for taking, on at the behest of the governor, a very daunting task. And I can say authoritatively not only by dint of experience, having been on the Commission for most of its existence, but having observed you at close quarters during your tenure, there is no question that the public interest was significantly advanced by your leadership. Thank you for letting me express myself." (VIDEO, at 2:25 mins).

Evidence, too, his toleration, at the June 28th meeting, of the outrageously false statements of others – such as Sharon Gerstman, one of the JCOPE members *cc'd* with him and JCOPE Chair Nieves on my aforesaid eight e-mails:

"Mr. Chair, I would just like to echo the comments that have already been made with respect to you and the staff, but also to say for those of us that are relatively new appointments to this Commission. We have had the opportunity to listen to how the media has categorized this Commission over the years of its existence and I have to say upon coming to this Commission, I found all of the commissioners and all of the staff to be serious, to do their work with the greatest amount of integrity, without political bias, and I believe served the public well and I would like it entered on the public record that the media has been wrong at least with respect to this Commission, these commissioners, as we are currently constituted. Thank you, Mr. Chair." (VIDEO, at 32:20 mins.).

Of course, it did not require the above eight e-mails for Mr. Lavine to know of, collude in, and completely cover-up, JCOPE's flagrant corruption and its catastrophic consequences to the People of the State of New York. He knew of it from at least October 7, 2019, when I spoke with him directly by phone about his then candidacy for Onondaga County district attorney against incumbent D.A. William Fitzpatrick, before whom, as chair of the Commission to Investigate Public Corruption, [I had testified on September 17, 2013, publicly identifying and handing up a copy of my first complaint to JCOPE](#) – that of June 27, 2013. Indeed, my above March 4, 2022 e-mail to Mr. Lavine referred to and linked to CJA's EVIDENTIARY webpage for the 2019 Onondaga County D.A. race – and the context was to highlight Mr. Lavine's ACTUAL knowledge of, and prior collusion in, JCOPE's corruption and the systemic corruption it enabled, giving rise to conflict of interest with respect to my subsequent complaints, including my then most recent fifth and sixth complaints to JCOPE – my [December 17, 2021 complaint](#) and [November 24, 2021 complaint](#) – the only complaints purported to have been "voted" on by JCOPE commissioners. The pertinent paragraph of my March 4, 2022 e-mail was, as follows:

"Alternatively, JCOPE commissioners, upon being furnished my December 17, 2021 and November 24, 2021 complaints, of which the majority would have recognized themselves to be directly interested, failed to disqualify themselves and, by their indefensible 'votes', acted on their interests, in violation of [Public Officers Law §74](#) and JCOPE's own [Code of Conduct for Members](#) and [Addendum](#). This would include former judges Richard Braun and C. Randall Hindrichs, who – like former judge Executive Director Berland – are financial beneficiaries of the fraudulent judicial pay raises underlying these complaints. It also includes all long-time commissioners liable for, if not knowledgeable of, JCOPE's

nonfeasance with respect to my [four prior fully-documented complaints](#). Certainly knowledgeable is Gary Lavine, ESQ., to whom I spoke by phone and communicated by e-mail in October 2019, when he was [running for election to be Onondaga County district attorney against incumbent William Fitzpatrick](#), the former lead co-chair of the bogus Commission to Investigate Public Corruption.”

As I presume you know, my December 17, 2021 complaint to JCOPE is specifically against you, by name. My subsequent seventh [April 13, 2021 complaint to JCOPE](#) is also against you. So, too, my prior fourth [March 5, 2021 complaint to JCOPE](#) is against you. Indeed, the only reason that my first [June 27, 2013 complaint to JCOPE](#) is not, likewise, against you is that you were not then a member of the legislature – unlike, for example, Temporary Senate President Stewart-Cousins, who was then occupying the position of Senate minority leader that you currently occupy.

Mr. Lavine must be required to account for what he did, as an attorney-member of JCOPE, upon receipt of each of my aforesaid nine e-mails sent directly to him – and to disgorge such findings of facts and conclusions of law as he made with respect to the mountain of *prima facie*, open-and-shut EVIDENCE they furnished establishing JCOPE’s knowing and deliberate violations of mandatory statutory provisions designed to ensure the integrity of its functioning, whose consequence was to enable and perpetuate brazen Public Officers Law §74 conflict of interest violations by NYS’ highest and most powerful public officers within its ethics jurisdiction, yourself among them – and a wholesale corrupting of state governance and larceny of taxpayer monies, on a massive scale, involving pay raises and the state budget.

Mr. Lavine is unfit, utterly, for any office of public trust. With all those with whom he collaborated and/or protected, such as yourself, he must be indicted and will be convicted, based on the EVIDENCE that he has known of and had, for years.

For your convenience, this message, with hyperlinks to the referred-to substantiating e-mails and EVIDENCE, will also be sent to you *via* your Senate e-mail address.

Thank you.

Elena Sassower, Director
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