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February 3, 2025

Holding Government Accountable – The People Fight Back!

**OPPOSITION REPORT TO THE NOVEMBER 14, 2024 FINAL REPORT
ON LEGISLATIVE AND EXECUTIVE COMPENSATION
OF THE (3rd) COMMISSION ON LEGISLATIVE, JUDICIAL
AND EXECUTIVE COMPENSATION**

Presented to:

**Governor Kathy Hochul & Lieutenant Governor Antonio Delgado
All Senators: c/o Senate Leaders Andrea Stewart-Cousins & Robert Ort
All Assembly Members: c/o Assembly Leaders Carl Heastie & William Barclay
Chief Judge Rowan Wilson & Chief Administrative Judge Joseph Zayas, Etc.
Attorney General Letitia James & Comptroller Thomas DiNapoli**

To Assist Your Discharge of Constitutional & Oversight Responsibilities:

- (1) to void the Commission’s “force of law” November 14, 2024 Final Report on Legislative and Executive Compensation because it is statutorily-violative, fraudulent, and unconstitutional, to “claw back” the salary increases paid to Executive Law §169 state officers since January 1, 2025 based thereon, and to strike/reduce appropriations for such increases in the FY2025-2026 state budget;**
- (2) to refer the Commission’s seven members and their co-conspirators in the Office of Court Administration and Division of the Budget for criminal prosecution based on penal law violations including:**

Penal Law §175.35: “Offering a false instrument for filing in the first degree”;

Penal Law §195: “Official misconduct”;

Penal Law §105.15: “Conspiracy in the second degree”;

Penal Law §20.00: “Criminal liability for conduct of another”;

Penal Law Article 496: “PUBLIC TRUST ACT”

§496.06: “Public corruption”;

§496.05: “Corrupting the government in the first degree”;

- (3) to investigate and rectify the “elephant in the room” HUGE salaries of the SUNY Chancellor and State Education Department Commissioner, arising from abuses of Executive Law §169.3.**

Written & Sworn to be True by: _____

Elena Ruth Sassower, Director

From the Commission's November 14, 2024 Final Meeting

[VIDEO](#) [Transcript](#)

“...it’s an extensive report...I think we’ve done wonderful work.

I think the report is an excellent report”

(Commissioner Helene Blank, ESQ., Tr. 5)

“...I would agree with everything Helene just said. ...

I’m very happy with the way it came out....

I’m going back and looking at what our authority was and our direction was.

I think we certainly took into account all the factors that we were required to...”

(Commissioner Theresa Egan, ESQ., Tr. 6)

“...I agree with all that Commissioners Blank and Egan have indicated.

I agree with all the findings and all the work that we’ve conducted through this...”

(Commissioner Nadine Fontaine, ESQ., Tr. 6)

“I agree with the comments of my colleagues thus far...

I’m grateful that the public has submitted comments. We go over them carefully...”

(Commissioner Victor Kovner, ESQ., Tr. 6)

“...I think where the report ended up, I think it’s good...”

(Commissioner Robert Megna, Tr. 9)

“I am echoing the comments of the previous commissioners

and I think the report is exactly where we need it to be.

...It was thoughtful and in consideration of all the facts presented to us.

...a report that I think is comprehensive”

(Commissioner Jeremy Weinstein, ESQ., Tr. 13)

“This is a thankless job. All the Commissioners have put in an extraordinary amount of time travelling all over the state, working for over two years,

to bring this ultimate report to a conclusion.

They’ve done it without compensation in any form and their service has been exceptional

and it should be noted ...you should be proud of the work you’ve done

and I’m proud to have worked with you. It’s been a privilege to serve with each of you.

Really, each of you are the highest quality kind of people. You all have great intellects.

You all have a great work ethic. You’re people of character.”

(Chair Eugene Fahey, ESQ., Tr. 15-16)

CJA’s February 3, 2025 Opposition Report
to the November 14, 2024 Final Report on Legislative & Executive Compensation
of the (3rd) Commission on Legislative, Judicial & Executive Compensation

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INTRODUCTION

The [November 14, 2024 Report on Legislative and Executive Compensation](#) of New York’s third incarnation of the [Commission on Legislative, Judicial and Executive Compensation](#) is a fraud on the People of the State of New York and a grand larceny of taxpayer monies by its salary increases to [Executive Law §169](#) state officers and possibly to others that its manipulations of Executive Law §169, by a chart, enables.

As with its [December 4, 2023 Report on Judicial Compensation](#), **this is readily proven**. It requires nothing more than comparing the paltry November 14, 2024 Report to the statute pursuant to which it purports to be rendered – [Chapter 60, Part E, of the Laws of 2015](#) – to establish its facial statutory violations mandating its voiding as a *matter of law*. Such violations replicate those of its December 4, 2023 Report and of all prior “force of law” compensation commission/committee reports, each “false instruments.

The facts pertaining to the December 4, 2023 Report are already documented by [CJA’s January 18, 2024 Opposition Report](#), furnished to the Commission’s four appointing authorities – Governor Kathy Hochul, Temporary Senate President Andrea Stewart-Cousins, Assembly Speaker Carl Heastie, Chief Judge Rowan Wilson – and, additionally, to Lieutenant Governor Antonio Delgado, to all members of the Senate and Assembly, to Attorney General Letitia James, to Comptroller Thomas DiNapoli, and to Chief Administrative Judge Joseph Zayas, expressly so that they could discharge their “Constitutional and Oversight Responsibilities” and:

“refer the Commission’s seven members for criminal prosecution – and for Attorney General James to herself bring such prosecution – based on penal law violations including:

Penal Law §175.35: ‘Offering a false instrument for filing in the first degree’;

Penal Law §195: ‘Official misconduct’;

Penal Law §105.15: ‘Conspiracy in the second degree’;

Penal Law §20.00: ‘Criminal liability for conduct of another’;

Penal Law Article 496: ‘PUBLIC TRUST ACT’

§496.06: ‘Public corruption’;

§496.05: ‘Corrupting the government in the first degree’”.

The January 18, 2024 Opposition Report detailed, virtually line-by-line, the fraud of the December 4, 2023 Report, starting with the transmitting letter of Commission Chair Eugene Fahey to the appointing authorities, the last paragraph reading:

“I would like to thank all the members of the Commission for their time, hard work, and dedication that they have given to our mission. As we move forward to the next phase of our responsibilities – determining appropriate levels of legislative and executive compensation – I look forward to working with them.” (underlining added).

To this, the Opposition Report replied (at p. 9):

“The Commission’s ‘mission’ is defined by the statute, which the seven commissioners violated knowingly and deliberately, while commending themselves for ‘their time, hard work and dedication’. Based on this Opposition Report, there can be no ‘next phase’ of ‘responsibilities’ for these commissioners – and such, moreover, is not about ‘determining appropriate levels of legislative and executive compensation’, but, as with the first phase, ‘adequate levels of compensation and non-salary benefits’.”

Based on the Opposition Report, its recipients were duty-bound to have decommissioned the Commission from a “next phase”. Instead, they ignored it, resulting in CJA’s suing them and the Commission in a lawsuit commenced by a [March 18, 2024 verified petition](#) seeking, as “other and further relief mandated by the record”:

“(i) referral of all respondents to criminal authorities for the corruption and collusion established by petitioners’ January 18, 2024 Opposition Report and their correspondence, complaints, and testimony relating thereto” (at p. 15).

The Albany County Supreme Court record of *CJA v. Commission on Legislative, Judicial and Executive Compensation, et al.*, [NYSCEF #902654-24](#), is a “perfect paper trail” of what happened next: the Commission and its fellow respondents did NOT deny the accuracy of the January 18, 2024 Opposition Report in any respect, had no defense to their nonfeasance, corrupted the judicial process by litigation fraud of their attorney, Attorney General James, and were rewarded by fraudulent decisions of judges whose salaries the Commission’s “false instrument” December 4, 2023 Report raised. In so-doing, the judges also covered up the “false instrument” August 29, 2011 Report of the Commission on Judicial Compensation and the “false instrument” December 24, 2015 Report of the (1st) Commission on Legislative, Judicial and Executive Compensation that had previously raised their judicial salaries, as well as the “false instrument” December 10, 2018 Report of the Committee on Legislative and Executive Compensation that had raised the salaries of the Governor, Lieutenant Governor, Attorney General, and Comptroller, all 213 state Legislators, and New York’s Executive Law §169 state officers and, by a chart, possibly others.

On October 10, 2024, at the Commission’s one and only hearing on legislative and executive compensation ([VIDEO](#), at 3mins/35 secs; Tr. 3-11: [Exhibit A](#)), CJA highlighted the Commission’s duty to make findings of fact and conclusions of law with respect to CJA’s lawsuit against the Commission – and with respect to CJA’s five predecessor lawsuits, specifying the still-live *CJA v. JCOPE, et al.*, about which CJA testified at the Commission’s October 13, 2023 hearing on judicial compensation ([VIDEO](#), at 2hrs/31 mins, Tr. 101-108: [Exhibit B](#)). These lawsuits, all involving the prior “false instrument” commission/committee reports raising salaries by “force of law”, were ALL defended by litigation fraud of the Attorney General and “thrown” by fraudulent judicial decisions, the fourth being *CJA v. Cuomo...DiFiore* that ended at the Court of Appeals, on which was then sitting the then Associate Judge Fahey and the now Chief Judge Wilson.

CJA’s October 10, 2024 testimony additionally highlighted that none of the executive and legislative officers whose salaries were before the Commission had shown up to testify, that the

Commission’s statutory charge, pursuant to Chapter 60, Part E, of the Laws of 2015, was “adequate levels of compensation and non-salary benefits”, that it had no evidence of inadequacy, and that the most important of the unspecified “all appropriate factors” that the statute required the Commission to “take into account” was corruption, the proof of which the lawsuit records furnished, establishing that the statewide and legislative electeds were corrupt and had corrupted and enabled the corruption of the “public protection” entities having disciplinary and criminal jurisdiction over them.

CJA identified its website link from which the substantiating evidence was accessible:

[“CJA’s Lawsuit vs the Latest Round of ‘False Instrument’
Judicial & D.A. Pay Raises & Opposition to Further Crimes
by the \(3rd\) Commission on Legislative, Judicial & Executive Compensation”](#)

and, shortly after concluding its testimony, submitted a [written statement](#) entitled “Substantiation of Testimony”, whose purpose was to furnish that link directly and LIVE for posting on the Commission’s then-empty [webpage of submissions on legislative and executive compensation](#).

CJA’s October 10, 2024 testimony ([Exhibit A](#)) is dispositive – which is why the Commission’s November 14, 2024 Report conceals it, *in toto*, just as its December 4, 2023 Report had concealed, *in toto*, CJA’s testimony at its October 13, 2023 hearing ([Exhibit B](#)), also dispositive and so-highlighted by CJA’s January 18, 2024 Opposition Report.

The Commission’s [November 14, 2024 Report](#) replicates the frauds and statutory violations of its [December 4, 2023 Report](#), with the addition of new frauds and violations pertaining to [Executive Law §169](#). Below are the particulars.

CHAIR FAHEY’s NOVEMBER 14, 2024 TRANSMITTAL LETTER

The two-sentence **FIRST PARAGRAPH** states, by its second sentence:

“Pursuant to Chapter 60 of the Laws of 2015, as amended in the Laws of 2019 Chapter 59, Part VVV, this report sets forth the Commission’s recommendations with respect to compensation levels of statewide elected officials, all elected legislators and executive department employees covered under Executive Law §169.” (underlining added).

This sentence contains two frauds. First, pursuant to “Chapter 60 of the Laws of 2015” – and identified by CJA’s testimony ([Exhibit A](#), at pp. 6-7) – the Commission’s recommendations are required to be predicated on “adequate levels of compensation and non-salary benefits”, which this sentence does not state to have been done. Second, no “employees” are covered by Executive Law §169. They are state officers – and this is how they are identified by [Executive Law §169](#), whose title “Salaries of certain state officers” is repeated by its first sentence, with [Chapter 60, Part E, of the Laws of 2015](#) further reinforcing this by its Section 2, referring, in three places, to “state officers referred to in section 169 of the executive law”.

The four-sentence **SECOND PARAGRAPH** states, by its first sentence:

“The Commission considered a broad range of data, beginning with the factors delineated in Part E of Chapter 60.” (underlining added).

This is also fraud. Pursuant to “Part E of Chapter 60” – and identified by CJA’s testimony ([Exhibit A](#), p. 7) – the Commission was required to “take into account all appropriate factors”, which this sentence does not state to have been done.

The remaining three sentences read:

“The Commission held a public hearing. All public meetings and hearings were broadcast live over the Internet. The Commission carefully reviewed the public testimony and written submissions received.” (underlining added).

Apart from the error in the second sentence, pluralizing the word hearing, when, as reflected by the first sentence there was but a single hearing, the third sentence is fraud. There was no “careful review. Rather, as the VIDEOS and transcripts make evident, there was an agenda to raise the salaries of Executive Law §169 state officers – and possibly others not covered – that dictated abandoning the unequivocal language of both [Chapter 60, Part E](#) and [Executive Law §169](#).

The **THIRD PARAGRAPH** states:

“The Commission relied upon the criteria set out in L. 2015, Ch. 60 Part E§3:

‘[t]he Commission shall take into account all appropriate factors including, but not limited to: the overall economic climate; rates of inflation; changes in public-sector spending; the levels of compensation and non-salary benefits received by executive branch officials and legislators of other states and of the federal government; the levels of compensation and non-salary benefits received by professionals in government, academia and private and nonprofit enterprise; and the state’s ability to fund increases in compensation and non-salary benefits” (underlining added).

This is another fraud. The Commission did not rely on the statutory criteria it quotes, three of whose six explicit “appropriate factors” expressly include “compensation and non-salary benefits”. The Commission never took into account anything but salary. As for the statutorily-unidentified other “all appropriate factors”, CJA’s testimony stated ([Exhibit A](#), at p. 7) that “The most important threshold factor is corruption, in office...whether the officers whose salaries you are examining are doing their job. Because we don’t pay people, don’t increase salaries for public officers who are not doing their job, who are corrupt. In fact, that is unconstitutional”. The only evidence the Commission had as to how those whose salaries it was considering were doing their jobs was that furnished by CJA’s testimony, establishing the corruption of the statewide and legislative elected

officials and the corruption of “public protection” entities having jurisdiction over them and over their Executive Law §169 state officers.

The single-sentence **FOURTH PARAGRAPH** states:

“The Commission did not recommend any increase in salary for elected officials. The decision was based solely on the fact that recent raises went into effect.” (underlining added).

This is fraud by its inference that but for “recent raises”, the Commission might have recommended salary increases for the “elected officials” – concealing that they already have the highest salaries in the nation, that they procured and have perpetuated their “recent raises” by statutory violations and fraud, and that CJA’s lawsuits against them establish their corrupting of constitutional, lawful governance.

The single-sentence **FIFTH PARAGRAPH** states:

“The Commission did recommend an increase in salary for §169 employees. Further we have recommended a change in the structure of the tiers, set out in §169, in order to implement the salary increases.”

This is fraud. There are no §169 “employees”. They are, expressly, “state officers” whose “increase in salary” was as recent and, for some, more recent than the salary increases for the statewide “elected officials”. Nor did the Commission make any finding or have any evidence that the salaries of §169 state officers were inadequate, let alone in conjunction with the HUGE monetary value of other “compensation and non-salary benefits”.¹

The single-sentence **SIXTH PARAGRAPH** furnishes a glimpse at the Office of Court Administration’s enabling role in the Commission’s frauds and violations of Chapter 60, Part E, of the Laws of 2015, stating:

“The Commission’s work would not have been possible without the staff at the Office of Court Administration, particularly Mindy Jeng, and, of course, my invaluable Administrative Assistant Christine Paz.”

¹ This HUGE monetary value is reflected by the [webpage about the Workers’ Compensation Board](#), whose chair, vice chair, and members are referred to in Executive Law §169. The webpage states:

“...the Chair’s annual compensation (salary plus fringe benefits) is \$337,641 (\$198,926 salary), the Vice Chair’s annual compensation is \$286,994 (\$169,087 salary), and the annual compensation of each Board Member is \$268,762 (\$158,345 salary).”

This is the subject of [CJA’s January 21, 2025 FOIL request to the Workers Compensation Board](#) pertaining thereto.

Mindy Jeng is “Special Counsel to the Executive Director in the Office of Court Administration”, whose “responsibilities” included serving as “Counsel to the Commission on Legislative, Judicial and Executive Compensation”.² This is how she identified herself in her disingenuous, if not perjurious, affirmation ([NYSCEF #66](#)) that Attorney General James filed in [CJA v. Commission](#) to support the Commission’s motion to dismiss the verified petition – and CJA laid this out by a May 6, 2024 letter to the court ([NYSCEF #75](#)), whose accuracy is uncontested.

As for Chair Fahey’s “invaluable Administrative Assistant Christine Paz”, [the Commission’s webpage of its meetings](#) reveals that on [January 29, 2024](#), her e-mail address was used by “Gene” to send an e-mail to all commissioners, with a *cc* to Ms. Jeng, entitled “State Elected Officials Compensation”. “Gene” is presumably Chair Fahey – and what he sent only related to salary, with no information about other “compensation and non-salary benefits” except for legislative *per diems* and mileage reimbursement, as to which it was incomplete. ([Exhibit C](#))

Ten and a half months later, at the Commission’s last meeting on November 14, 2024 ([VIDEO, Tr. 3](#)), Chair Fahey would single out “Christine Paz” for credit, together with “one of our court employees, Ross Gotecki” for “the charts within the report”. These [charts](#) (at pp. 8-10, 12-13) pertained only to salary, without other “compensation and non-salary benefits”. Except for the last two charts, they were lifted from the [Division of the Budget’s September 27, 2024 written submission to the Commission](#) (at pp. 2-3, 6-9).

Notably, among the cases that Chair Fahey heard when he was a Court of Appeals associate judge was [Bransten v. New York State](#), 30 N.Y.3d 434 (2017), involving “compensation” and “non-salary benefits” and differentiating these from “salary”:

“...compensation is complicated by a wide array of permutations including tax-advantaged 401(k) plans, flex spending medical and childcare accounts, deferred compensation options, the reimbursement of itemized job-related expenses, pension contributions and accounts, and...state-sponsored health care coverage paid for mostly by the State...”

The single-sentence **SEVENTH PARAGRAPH** concludes the letter, stating:

“Further, all members of the Commission should be recognized for their intelligence, dedication and hard work. It has been an honor to serve with them.”

This is fraud. The VIDEOS of the Commission’s meetings, on [June 27, 2024](#), [November 7, 2024](#), and [November 14, 2024](#), which are, respectively, 26 minutes, 38 minutes, and 21 minutes, and of the Commission’s single [October 10, 2024 hearing](#), which is 48 minutes, show ZERO intelligence, dedication, and hard work by the commissioners – and such is underscored by their flimsy, fraudulent Report, for which they shamelessly congratulated themselves and lauded their chair.

² Ms. Jeng is no newcomer to the scene. She was working, behind-the-scenes, at the OCA, at least as far back as the first Commission on Legislative, Judicial and Executive Compensation.

THE COMMISSION's NOVEMBER 14, 2024 FINAL REPORT & ITS OMITTED "INTRODUCTION"

A coverage page for the Commission's November 14, 2024 Report follows the transmittal letter, after which is a Table of Contents, with four headings:

MEMBERS OF THE COMMISSION
STATUTORY MANDATE
FINDINGS
CONCLUSIONS

These are the same headings as in the [December 4, 2023 Report](#), except that there included was an "INTRODUCTION", section, placed between "MEMBERS OF THE COMMISSION" and "STATUTORY MANDATE". [CJA's January 18, 2024 Opposition Report](#) (at pp. 18-24) demonstrated it to be "deceitful, fraudulent, and improper", further pointing out that it would have been a good place for a "background recital of the prior compensation commissions and committee", with historical and contextual materials as to the guiding standard for assessing adequate salary levels, such recognized as far back as 1982,

"whether a reasonable supply of well-qualified [candidates] will make themselves available to become or remain [state officers]. The lowest pay which produces an adequate supply of well-qualified candidates...is the only pay level which is fair to State taxpayers; any higher pay would require unnecessarily higher taxes".

The ONLY background historical recital in the November 14, 2024 Report is by the first sentence of its "Statutory Mandate" section (at p. 5), stating:

"In March of 2015, Part E of chapter 60 of the Laws of 2015 was enacted, providing for a quadrennial commission to 'examine, evaluate and make recommendations with respect to adequate levels of compensation and non-salary benefits' for judges, members of the Legislature and certain statewide elected officials and Executive Branch officers named in Executive Law §169."

Concealed by this true sentence is that "Part E of chapter 60 of the Laws of 2015" was enacted without ANY legislative due process, "through the budget and by fraud, a ground for challenge", so-stated by CJA in testifying before the Commission at its October 13, 2023 hearing on judicial compensation, specifying the lawsuit challenge as *CJA v. Cuomo...DiFiore* and its successor *CJA v. JCOPE, et al*, "thrown" by fraudulent judicial decisions ([VIDEO](#), 2hrs/33mins, [Exhibit B](#), at 101, 104-108).

As to what transpired after "March of 2015", the November 14, 2024 Report furnishes no information about the two prior iterations of the Commission by the same name, in 2015-2016 and in 2019-2020 – and how they discharged their "statutory mandate". This, notwithstanding their records were all conveniently available from the [Commission's own website](#), as well as from CJA's website link: "[NY's 'Force of Law' Commissions – Unconstitutionality & Fraud IN PLAIN SIGHT](#)".

As for the 2018 Committee on Legislative and Executive Compensation, whose records, other than its [December 10, 2018 Report](#), are ALL missing from the Commission's website, a fact to which CJA alerted the Commission by an [October 12, 2023 letter](#) entitled "'History', Your Website – & Prepping for Tomorrow's Hearing", seven copies of which CJA handed up to the seven commissioners at the October 13, 2023 hearing, the November 14, 2024 Report refers to it only as the "2018 Commission" and "2018 Compensation Commission" – and this only in its [Addendum A first and second charts \(at p. 8\)](#) and on its last page, at the bottom of its [last chart \(at p. 13\)](#). From these can be discerned only the most skeletal history, *to wit*, that the "2018 Commission" gave a series of salary increases to legislative and executive officers for CY2019, CY2020, and CY2021, which they all got except that the CY2020 and CY2021 salary increases for the legislators were struck down due to "successful litigation challenging the outside income limit", but that, thereafter, "Eff 1/1/23", "Chapter 841 of the Laws of 2022 increased annual pay for legislators to \$142,000".

CJA's January 18, 2024 Opposition Report (at pp. 23-24) furnished the relevant facts about the Committee on Legislative and Executive Compensation's salary increases and the legislature's "Eff 1/1/23" raise in rebutting the description, in the "Introduction" of the December 4, 2023 Report (at p. 1), that legislative and executive pay raises had been "well deserved". The rebuttal, with its substantiating live hyperlinks to facilitate verification, was as follows:

"...In March 2018, the fraudulent Supreme Court decisions in *CJA v. Cuomo...DiFiore* and its predecessors led directly to the supposed 'well-deserved pay raises' for the legislators and governor, *et al.*, as they enabled the governor, temporary senate president, and assembly speaker to continue their unconstitutional 'three men in a room' behind-closed-doors budget deal-making and insert a [Part HHH](#) into the revenue budget bill. This established the Committee on Legislative and Executive Compensation, which then rendered a 'false instrument' [December 10, 2018 Report](#) to confer pay raises. [CJA's July 15, 2019 analysis of the December 10, 2018 Report](#) documents this – and it underlies CJA's March 5, 2021 complaint to JCOPE [[R.207-286](#)] and subsequent three complaints, for which investigation is sought by [CJA v. JCOPE, et al, now on appeal at the Appellate Division, Third Department](#), after having been 'thrown' by two fraudulent Supreme Court decisions.

The direct legal challenge to Part HHH, Chapter 59 of the Laws of 2018 and the Committee on Legislative and Executive Compensation's December 10, 2018 Report was [Delgado v. New York State](#) – and it was 'thrown' by a fraudulent June 7, 2019 Supreme Court decision that rested on the fraudulent December 27, 2018 decision of the Appellate Division, Third Department in *CJA v. Cuomo...DiFiore*. By then, [CJA v. Cuomo...DiFiore was at the Court of Appeals](#) seeking review both by right and by leave, identifying that it was dispositive of the unfolding *Delgado* case. By unsigned October 21, 2019 orders, with Chief Judge DiFiore allegedly '[taking] no part', the Court of Appeals, with *Delgado* before it on a direct appeal, denied review by right and by leave to *CJA v. Cuomo...DiFiore*. The Court then denied the *Delgado* direct appeal by an unsigned November 21, 2019 order. CJA

detailed this in its final November 25, 2019 motion in *CJA v. Cuomo...DiFiore* – simultaneously furnishing the motion to the 2019 (2nd) Commission on Legislative, Judicial and Executive Compensation, on which Commissioner Megna sat.

Over a year later, the Appellate Division, Third Department ‘threw’ the *Delgado* appeal by a fraudulent March 18, 2021 decision which – like the Supreme Court decision it affirmed – rested on its own fraudulent *CJA v. Cuomo...DiFiore* decision. This is also embraced by *CJA v. JCOPE, et al.*, as what the Appellate Division did in *Delgado*, thereafter covered up by the Commission on Judicial Conduct, is part of CJA’s November 24, 2021 complaint against the Commission on Judicial Conduct to JCOPE [[R.185-206](#)], to which CJA referred in testifying at the October 13th [2023] hearing (Tr. 105).

The *Delgado* case then continued to the Court of Appeals, which, in May 2021, granted an appeal of right. On November 17, 2022, the then six judges of the Court of Appeals rendered three opinions, two of which were to affirm the constitutionality of Part HHH, one to disaffirm – all three materially fraudulent.^{fn21} Notwithstanding the affirmance meant that the largely identical Part E, Chapter 60 of the Laws of 2015 was not struck down, the ‘lame duck’ legislators – with Governor Hochul’s approval – opted to forgo waiting for the 2023 Commission and spent about \$50,000 in taxpayer money^{fn22} for [a December 22, 2022 special session of the legislature, for the sole purpose of giving themselves a further pay raise, effective January 1, 2023.](#)”

As for the salary increases for Executive Law §169 state officers that the [Committee on Legislative and Executive Compensation’s December 10, 2018 Report](#) effectuated, the November 14, 2024 Report relegates them to two contrary charts: its [Addendum A first chart \(at p. 8\)](#) showing, in addition to salary increases in CY2019, CY2020, and CY2021, salary increases after CY2021 for “EXL §169 – Tier C” and “EXL §169 – Tier D” and its [Addendum A fourth chart \(at p. 9\)](#) asserting that the “EXL §169 positions were last updated in January 2021”. Its only further information, by its [Addendum A second chart \(at p. 8\)](#), is that the “2018 Commission” took “the six tiers within Section 169” and “compressed [them] to four tiers”.

^{fn21} Summarizing this is [CJA’s April 16, 2023 e-mail to the Senate Judiciary Committee](#), sent [again on April 17, 2023](#), requesting to testify in opposition to Senate confirmation of then Court of Appeals Associate Judge Wilson as chief judge. This was referred to by CJA’s director at the Senate Judiciary Committee’s ‘meeting’ on the confirmation, attended by retired Court of Appeals Judge Fahey, at which she reiterated her requests to testify, to which there had been no response. [CJA’s April 18, 2023 e-mail to the Secretary of the Senate](#), for distribution to all 63 senators prior to their Senate vote, transcribes from the video what CJA’s director said.”

^{fn22} ‘[You Paid For It: Special session for lawmaker raise cost taxpayers thousands](#)’, CBS6 News/Albany (Greg Floyd).”

Nowhere revealed is that the December 10, 2018 Report expressly required the Governor to “set forth a plan for the salary within ranges for paragraph C and D” (at p. 9, also pp. 7, 17-18). Nor does the November 14, 2024 Report furnish the slightest information about the Governor’s salary plans for what it terms “Tier C” and “Tier D”.

The post-CY2021 salary increases for “Tier C” and “Tier D” would appear to be the result of a gubernatorial salary plan.³

**“I. MEMBERS OF THE COMMISSION ON LEGISLATIVE,
JUDICIAL AND EXECUTIVE COMPENSATION” (at pp. 1-4)**

Identically to the [December 4, 2023 Report](#), the first section of the [November 14, 2024 Report](#) consists of the same four pages of commissioner bios, unchanged except for a single sentence addition. CJA’s seven-page expose of the bios, by its January 18, 2024 Opposition Report (at pp. 10-17), identically applies here, starting with its observation:

“The prominence given to these bios is itself a fraud, designed to foster the belief that credentialed individuals appointed by New York’s four highest constitutional officers of its three government branches can be trusted to have faithfully discharged statutory duties they have brazenly violated.

Six of the commissioners are attorneys, with two of these former judges....”

As for the single-sentence addition, it is to Commissioner Egan’s bio (at p. 2) and reads:

“Most recently, she has assumed the role as interim Town Justice for the Town of Bethlehem. serving until the end of 2024.”

Chair Fahey identified this appointment at the Commission’s first June 27, 2024 meeting on legislative and executive compensation, *a propos* of nothing said by Commissioner Egan or by Commissioner Fontaine on the subject:

“The issue of Commissioner Fontaine’s appointment to the Court of Claims and Commissioner Egan’s appointment to Town Judge of Bethlehem, my research indicates that there is no conflict. Commissioner Fontaine will not begin serving until the work of the Commission is completed and Commissioner Egan is appointed as a town judge in Bethlehem. Town judges are an area of the judiciary over which we have no jurisdiction. Town and village courts are handled by their own municipalities and are not governed or administered by the Office of Court Administration. So, there’s no conflict. I’m just noting that for the record. I don’t think we need to do anything else, unless anyone else does.” ([Tr. 7](#))

It is unknown whether, in connection with her town court appointment, Commissioner Egan had been required to disclose whether she knew of anything disqualifying, such as misconduct

³ CJA has made a [January 14, 2025 FOIL request](#) to the Governor for the salary plans, as well as a [January 15, 2024 FOIL request](#) to the Commission and the Division of the Budget for, *inter alia*, “all records pertaining to the salary increases for ‘Tier C’ and ‘Tier D’ ‘EXL §169 positions’ subsequent to 2021”.

complaints against her, as an attorney or related to her public service, and to sign waivers of confidentiality to permit attorney grievance committees and other government bodies to disclose records of misconduct complaints against her. However, such was required of Commissioner Fontaine in applying for a Court of Claims judgeship – as evidenced by the blank copy of Governor Hochul’s “[Appointments Questionnaire](#)”, most explicitly by its required “Consent, Authorization and Release” (at p. 44).

By a [November 1, 2024 FOIL request to Governor Hochul’s Office](#), CJA requested records pertaining to Commissioner Fontaine’s Court of Claims judgeship, and, specifically,

- (1) records reflecting the date Ms. Fontaine first communicated her interest in a Court of Claims judgeship to the office of Governor Hochul’s Judicial Screening Committees and/or submitted her completed questionnaire to it;
- (2) a copy of Ms. Fontaine’s completed questionnaire, with such redactions as deemed necessary;
- (3) records as to the dates that the appropriate judicial screening committee – presumably the State Judicial Screening Committee – was furnished with Ms. Fontaine’s completed questionnaire and approved her prospective appointment;
- (4) a copy of Governor Hochul signed appointment of Ms. Fontaine to a Court of Claims judgeship;
- (5) records as to the date Governor Hochul sent Ms. Fontaine’s judicial appointment and supporting materials to the Senate and/or the Senate Judiciary Committee – and a copy of those supporting materials, with such redactions as deemed necessary;
- (6) Governor Hochul’s press release announcing Ms. Fontaine’s judicial appointment – and the judicial appointments of the other 24 judicial nominees that the Senate Judiciary Committee approved at its June 5, 2024 meeting.”⁴

On [November 4, 2024](#), the Governor’s office acknowledged receipt and that it would respond further by December 4, 2024. On [December 4, 2024](#), it extended its response to January 7, 2025 and then on [January 7, 2025](#) extended it to February 7, 2025.

Notably, whereas the bios section of CJA’s January 18, 2024 Opposition Report (at pp. 10-17) had detailed the disqualifying financial and other conflicts of interest of Chair Fahey and Commissioners Megna, Kovner, and Weinstein, it stated (at p. 14), with respect to Commissioners Fontaine, Egan, and Blank, that their “undisclosed interests and relationships” had “bias[ed] them totally”. This must now be modified as to Commissioner Fontaine. She was BOTH Governor Hochul’s appointee to the Commission AND working for the Governor, thereby clearly conflicted in “blowing the whistle” on the Governor’s corruption, embodied by *CJA v. JCOPE, et al.*, focally identified by CJA’s testimony at the October 13, 2023 hearing ([Exhibit B](#), at pp. 105-108). She

⁴ This was also the subject of [CJA’s November 1, 2024 FOIL request to the Senate](#).

was, of course, additionally conflicted, if, at that time, she harbored judicial ambitions. Or was the Court of Claims judgeship simply a later reward to keep her in line, following CJA’s January 18, 2024 Opposition Report and the *CJA v. Commission, et al.* lawsuit based thereon?

In any event, based on CJA’s January 18, 2024 Opposition Report and lawsuit against them, the seven commissioners may be deemed to know that they were absolute disqualified for interest and that any deviations from their frauds and statutory violations in their second phase pertaining to legislative and executive compensation would expose their same frauds and violations in the first phase pertaining to judicial compensation.

“II. STATUTORY MANDATE” (at pp. 5-6)

This eight-paragraph section essentially replicates, *verbatim*, the seven-paragraph “Statutory Mandate” section of the Commission’s December 4, 2023 Report, starting with the first sentence of the **FIRST PARAGRAPH**: “In March of 2015, Part E of chapter 60 of the Laws of 2015 was enacted...” CJA’s January 18, 2024 Opposition Report (at p. 25) established that such enactment was “through the budget, unconstitutionally, and by fraud” by record citations to *CJA v. Cuomo...DiFiore* and *CJA v. JCOPE, et al.* and to the fraudulent judicial decisions that had “thrown” them.⁵

Although the balance of the **FIRST PARAGRAPH** correctly quotes the Commission’s statutory charge to “examine, evaluate and make recommendations with respect to adequate levels of

⁵ These record citations, furnished by two footnotes, were:

Fn. 24: “See, in particular, sections D and E of the sixth cause of action in [CJA v. Cuomo...DiFiore](#) (¶¶67-68), resting on sections D and E of the thirteenth cause of action in the predecessor [CJA v. Cuomo, et al.](#) citizen taxpayer action (¶¶407-423). [CJA’s March 27, 2019 letter to the Court of Appeals in support of its appeal of right](#) furnishes the particulars (at pp. 17-20) as to the fraud of the Appellate Division, Third Department’s December 27, 2018 decision with respect to sections D and E, covering up the fraudulence of the appealed-from Supreme Court decision, set forth by [CJA’s July 4, 2018 appeal brief](#).”

Fn. 25: “See, in particular, the sixth cause of action in [CJA v. JCOPE, et al.](#) (¶¶78-85) [[R.81-84](#)], specifically ¶¶81, 82, 85 pertaining to CJA’s March 18, 2020 letter to then Governor Cuomo [[R.132-154](#)] as to the unconstitutionality of non-tax, non-revenue-producing policy legislation, inserted into the budget, based on an analysis of the Court of Appeals’ 2004 plurality, concurring, and dissenting opinions in *Pataki v. Assembly/Silver v. Pataki*, 4 NY3d 75. The fraudulent dismissal of that sixth cause of action by a November 23, 2022 Supreme Court decision, including by its reliance on the Appellate Division, Third Department’s December 27, 2018 decision in *CJA v. Cuomo...DiFiore*, is particularized by [CJA’s “legal autopsy”/analysis thereof](#) [see R.882-884], now before the Appellate Division, Third Department. Its dispositive nature is focally presented by [CJA’s August 15, 2023 appellants’ brief](#) – and [following the conclusion of the Commission’s October 13, 2023 hearing] CJA gave a copy to Chair Fahey, *in hand*, together with the three-volume record on appeal containing it, twice [R.9-39, R.856-886].”

compensation and non-salary benefits”, the **SECOND PARAGRAPH** transmogrifies it to falsely purport that the Commission was to determine “appropriate judicial salary levels”. This is fraud. The statute’s use of the word “appropriate” is part of its directive that the Commission “shall take into account all appropriate factors, including but not limited to...”

The **THIRD, FOURTH, and FIFTH PARAGRAPHS** pertain to non-substantive procedural aspects of the statute – and skip over the June 1st date on which the Commission was supposed to have been established (§2.1) and the resources with which [Chapter 60, Part E of the Laws of 2015](#) equipped the Commission for its task in three separate places:

§3.2: “...The commission...shall have all the powers of a legislative committee pursuant to the legislative law...”

§3.5: “To the maximum extent feasible, the commission shall be entitled to request and receive and shall utilize and be provided with such facilities, resources and data of any court, department, division, board, bureau, commission, agency or public authority of the state or any political subdivision thereof as it may reasonably request to carry out properly its powers and duties pursuant to this section.”

§3.6: “The commission may request, and shall receive, reasonable assistance from state agency personnel as necessary for the performance of its function.”

The only resources and assistance that the Commission availed itself of were of the Office of Court Administration and Division of the Budget, which actively colluded in and enabled its frauds and statutory violations.

The **SIXTH and SEVENTH PARAGRAPHS** state:

“Initially, on the issue of judicial pay raises, the Commission held public meetings in New York City. It also held two days of public hearings; one on October 13, 2023 in New York City and one on October 31, 2023 in Albany. A total of 31 witnesses testified at the hearings. The public hearings and meetings were televised live on the Internet”.

A public hearing was held in Albany on October 10, 2024. Four witnesses testified. This hearing was devoted to the issue of Legislative and Executive Compensation.” (underlining added).

The sentence that “Four witnesses testified” at the October 10, 2024 hearing on legislative and executive compensation is fraud. Only two witnesses testified, verifiable from the [VIDEO](#), the [transcript](#), and the Commission’s subsequently posted [witness list](#). These were CJA by its director, Elena Sassower, who had requested and did testify, remotely, and Reinvent Albany by its senior policy director, Rachel Fauss, who had not requested to testify, but, during the hearing, presumably while watching the livestream of CJA’s remote testimony, called in and, likewise, testified remotely.

The untruth of the “Four witnesses testified” was Commissioner Fontaine’s SOLE comment about the Report at the Commission’s November 14, 2024 meeting approving it ([Tr. 6-7](#)):

Comm’r Fontaine: ...I only had one comment on the report, and I started discussing it, regarding the hearings – the witnesses that were – we heard at the first hearing and just wanted to clarify whether there were two or four. You indicated that you were one of those individuals that would be regarded as a witness that testified at that time, so I just wanted to clarify that.

Chair Fahey: Nadine, I’m going to go back and check it. There were –

Comm’r Blank: Two live witnesses.

Chair Fahey: Two live witnesses, but one we had one written witness and I wanted to include her. I think it was PIRG who submitted a written summary and they talked about outside income, so I wanted to make sure that I included their testimony as part of it. That’s why I did it that way.

Comm’r Fontaine: Okay. Understood. I was interpreting it as individuals that appeared, physically appeared, but that makes perfect sense.

Chair Fahey: No, they were just part of the record. And they submitted it that day, so I thought they should be included.

Obviously, [NYPIRG’s October 10, 2024 written statement](#) did not make the number of witnesses four – unless Chair Fahey “would be regarded as a witness that testified at that time”, as Commissioner Fontaine shockingly revealed Chair Fahey to have stated, without contradiction by him.

What “witness” testimony did Chair Fahey give? Was it the presentation of 27 “slides” consisting of the [Division on the Budget’s September 27, 2024 submission](#) pertaining only to salary and which, with respect to Executive Law §169, indicated salary increases for Tier C and Tier D after 2021 and whose Tier A for “SUNY Chancellor” and “SED President” revealed their respective current salaries as “\$750,000” and “464,000”, with an asterisk “Salary exceeds EXL 169 salary due to Board Action”, as to which Chair Fahey provided no elaborative comment?

The obvious reason for the pretense that “Four witnesses testified” is to conceal the astonishing dearth of witnesses, about which Chair Fahey defensively stated, at the outset of the hearing ([VIDEO](#), [\(Exhibit A\)](#), at p.3):

“...I just want to point out that both on our website and through mailings and notifications to the media, the Commission has clearly made itself available for any input that the public wants to take, or make, on this issue”.⁶

⁶ CJA made a [January 29, 2025 FOIL request](#) to the Commission pertaining thereto.

The final **EIGHTH PARAGRAPH** is identical to the seventh paragraph of the December 4, 2023 Report, except that it deletes the number of “written submissions” the Commission received, so that it reads:

“In addition, the Commission invited written commentary and established post office and email addresses (nyscompensation@gmail.com) through which it received written submissions from judicial associations, bar associations, good government groups, and other interested individuals and organizations. The witness lists, written submissions and other information about the work of the Commission including transcripts and videos of the Commission’s public hearings and meetings, are all available on the website at: www.nyscommissiononcompensation.org.” (underlining added).

Not deleted are “judicial associations, bar associations”, notwithstanding they made no “written submissions” pertaining to legislative and executive compensation – the presumed subject of this paragraph. As evident from the [Commission’s webpage of written submissions for legislative and executive compensation](#), the number it had received was 12, listed as:

[Commission Information - Division of the Budget](#)
[Reinvent Albany](#)
[NY PIRG](#)
[Elena Sassower - Center for Judicial Accountability](#)
[IOLA Fund](#)
[Joanne Withkowski](#)
[Anita Boyd](#)
[Elizabeth Lerner](#)
[Lubber Lucid](#)
[Patricia Zincke](#)
[Barbara Zahler-Gringer](#)
[Kathryn Garcia](#)

Suffice to add that the Commission does not here repeat the sentence from Chair Fahey’s transmittal letter “The Commission carefully reviewed the public testimony and written submissions it received”. No review, let alone careful review, is evidenced by the videos and transcripts of the meetings and hearing. To the contrary, as, for example:

- notwithstanding the six documents that “Gene” sent the commissioners by his [January 29, 2024 e-mail](#) – which [the Commission’s webpage for its meetings](#) purports as having been “distributed” to them for their June 27, 2024 meeting – none of it was even mentioned at the June 27, 2024 meeting ([VIDEO](#), [Tr.](#)), or at any time, thereafter, although, *on their face*, there was much to be discussed and questioned about them ([Exhibit C](#)); and
- notwithstanding the [Division of the Budget’s written submission to the Commission](#) was on September 27, 2024, the commissioners acted as if it was

something new and complex that they would have to digest when Chair Fahey presented it as a “slideshow” at the October 10, 2024 hearing (Tr. 23-27):

Chair Fahey: Is there anything that any of the Commissioners want to say at this point? About any of the information? Anything at all?

Comm’r Weinstein: Is it possible for our next meeting to have – I know we have all this information, it’s all available, there’s quite a lot of it, maybe some type of print-out in a document that we could look at?

Comm’r Fahey: This I forwarded to you.

Comm’r Weinstein: That I know. I am just wondering if some of the other information that we have seen can be – I’ll call it a cheat sheet, if you will, just something to be able to look at for quick comparison, as opposed to, because there’s quite a lot of documentation that we have to go through.

Chair Fahey: Why don’t we talk separately Commissioner, tell me what you need and I’ll try to put it together for you and give it to you in a form that you think is best for you. I’m happy to do that.

...
Comm’r Blank: I’m just absorbing everything. I’ve listened to what my fellow Commissioners say and hope to have more input at our next meeting.

Comm’r Weinstein: I think Helene said it correctly, we got alot of good information today, and at our next meeting we’ll be able to discuss it and get everyone’s views and try to come up with something appropriate...

...
Comm’r Fontaine: I’m also similarly reserving my opinion until I have an opportunity to fully review these materials...

Yet at the Commission’s next meeting, on November 7, 2024 ([VIDEO](#), [Tr.](#)), at which the commissioners made their purported “findings”, there was no discussion of Chair Fahey’s “slideshow” from the Division of the Budget’s September 27, 2024 written submission, nor of the October 10, 2024 testimony and written statements of the other “three” witnesses at the hearing.

“III. FINDINGS” (at pp. 7-10)

Without identifying any of the testimony and written submissions the Commission had received, the November 14, 2024 Report proceeds to its so-called “findings”, of which it makes five.

First “Finding”: “Elected Officials” (at p. 7):

“The decision not to recommend any increase in salary for elected officials is based solely on the recent pay raises.”

This “finding” is devoid of ANY facts – starting with the dates of “the recent pay raises”.

As with the next four “findings”, this “finding” was made at the Commission’s November 7, 2024 meeting ([VIDEO](#)). It consolidates two separate questions Chair Fahey asked the members ([Tr. 4-8](#)). The first was: “whether or not there should be any consideration of a pay raise for statewide elected officials” – to which Commissioner Kovner answered:

“I think we should put it on the record that it’s our understanding that this issue was addressed by the legislators and the governor less than a year ago. And which is, argues persuasively in my view that we ought not oppose any change at this point.”

This was the entirety of what Commission Kovner had to say – and he furnished not the slightest basis for his remarkable assertion: “our understanding that this issue was addressed by the legislators and the governor less than a year ago”, because it is FALSE. The last pay raise for “statewide elected officials” had been nearly four years earlier, on January 1, 2021 – the product of the [Committee on Legislative and Executive Compensation’s December 10, 2018 Report](#).

Indeed, the 2021 salary increase was reflected by the [Division of the Budget’s September 27, 2024 submission](#), and, prior thereto, by “Gene’s” January 29, 2021 informational materials ([Exhibit C](#)) – and, indeed, Chair Fahey had himself stated at the October 10, 2024 hearing, during his “slideshow”, that “the salaries of statewide elected officials...[were] last updated three years, almost four years ago in 2021” (Tr. 18), none of the commissioners corrected Commissioner Kovner. To the contrary, they endorsed what he said:

Comm’r Egan: Victor, you jumped in before I could. I think you very articulately expressed my same thoughts and I would echo the sentiments that you have already shared.

Comm’r Megna: I agree.

Comm’r Blank: So do I.

Comm’r Fontaine: Same.

Comm’r Weinstein: Agree.

For his part, Chair Fahey noted that he was not permitted to vote but that the “six zero [vote] against any pay raises for statewide elected officials at this time” was:

“not a comment on the quality of the work or any policy question, but simply the recency of recent pay raises. It means that it isn’t the right time for us to move forward on this situation.” (Tr. 5).

Commissioners Egan, Fontaine, and Megna thereupon audibly assented “Yes”, “Yes”, and “Yes”.

This was flagrant fraud and a cover-up of what the Commission’s “finding” should have been, namely, that since January 1, 2021, as a result of the salary increases effectuated by the December 10, 2018 Report, the Governor, Lieutenant Governor, and Attorney General salaries have salaries higher than their counterparts in any other state – with the Comptroller’s salary, virtually the highest ([Exhibit C](#)) – and that neither by testimony nor any written submission had these four statewide elected officials purported their salaries to be inadequate, let alone provided ANY evidence to support a claim of inadequacy, not made.

As for the “quality” of these four statewide electeds, the ONLY evidence on that subject was furnished by CJA’s October 10, 2024 testimony ([Exhibit A](#)), establishing them to be corrupt and not operating at a constitutional level, disentitling them to pay raises and mandating their prosecution.

Chair Fahey’s second question was as to “pay raises for legislators in both the Assembly and the Senate” – following which he stated: “Let’s hear from the Senate first” (Tr. 5). Apparently, this was code for hearing from Commissioner Weinstein, the appointee of Senate Leader Stewart-Cousins, who answered:

“Well, again, the Legislature made a determination after the previous commission failed to consider a pay raise, and within their authority they gave themselves a pay raise which would by law I think measure what’s appropriate. But, again, it’s recent so maybe our actions today would be not to move on pay raises at this point because those pay raises are significant, appropriate, and relatively new.” (Tr. 5)

Commissioner Weinstein then launched into “one editorial comment having been a former member of the legislature”, taking issue that the legislature was “part time”⁷ and asserting:

⁷ Presumably, this was in response to citizen emails to the Commission objecting to legislative salary increases: [Joanne Withkowsky’s November 1, 2024 e-mail](#) stating that legislators are “paid more than fairly” for a “part time job” and that the Commission should consider requiring legislators to “fill out time cards” of how they spend their time; [Lubber Lucid’s November 1, 2024 e-mail](#), identifying himself/herself as a legislative employee of over 28 years, and complaining about the disparity between the salaries of the “still part time” legislators and those of their full time staff; [Patricia Zincke’s November 1, 2024 e-mail](#) against pay raises for legislators, as they “work less than six months a year...get room and board while they are in Albany...get lulus for working on committees”, and outside income; and [Barbara Zahler Gringer’s November 10, 2024 e-mail](#) against pay raises for legislators who meet “barely half the year”.

“...I have enormous respect for them and that the pay raises that they felt appropriate and necessary to pass a couple years back I think was a good one and we should move on from that.” (Tr. 6).

He gave no law to support his assertion that it was “within their authority” for the legislators to “give themselves a pay raise”, as if Chapter 60, Part E, of the Laws of 2015 was not preemptive of their doing so. Nor did he give any facts as to why it was “appropriate” and “necessary”, other than his “enormous respect” for the legislators based upon his having been one.

Thereupon, the other commissioners followed with their own improper testimonials (Tr. 6-8):

Comm’r Egan: ...On behalf of the Assembly, very similar organizations so thank you, Jeremy, for that. I would in addition not all of those great comments is echo it...and we all recognize that, certainly going forward. ...yeah, I have the utmost respect for our legislators on both side of the house and what they do and what they are faced with year long. But I do think at this point in time based on last time that there had been a pay raise and certainly recognizing they can move forward as they did the last time if need be during this period of time until this group meets again. I think at this point in time we’re good where we’re at.

Comm’r Kovner: I agree and I agree with the comments of the demands upon our legislators and the, and the high quality of public service they provide on the whole. I think we’re at a good point and no action is necessary.

Comm’r Blank: I echo what Commissioner Eagan and what Commissioner Weinstein said. I think that what they said is correct and I feel the same way about our legislators. I think working with them and lobbying them they are always working.

Comm’r Megna: I agree with all the commentary that has been made so far. And I think, you know, maybe we should emphasize the fact as the members already have that actions have been taken – relatively recent past last year. So I think it’s appropriate for us to move on at this point.

Comm’r Fontaine: I also agree...

This, too, was fraud and a cover-up of what should have been the Commission’s “finding”, namely, that since January 1, 2023, as a result of the salary increases the legislators had voted for themselves, theirs was the highest salary among state legislators and that neither by testimony nor written submission had they purported their salaries to be inadequate, let alone provided ANY evidence to support a claim of inadequacy, not made.

Here, too, the ONLY evidence the Commission had concerning the legislators’ “quality” and “work” had been furnished by CJA in testifying at the October 10, 2024 hearing ([Exhibit A](#)), establishing them to be corrupt and not operating at a constitutional level, disintitling them to any increases and mandating their prosecution.

Second “Finding”: Legislators’ “Outside Income” (at p. 7):

“The Commission has no authority to address the issue of ‘outside income’ earned by Legislators. This restriction has been set out by the New York Court of Appeals in *Barclay v. NYS Committee on Legislative and Executive Compensation*, 39 NY3d 342 (2022). Further, this authority was clarified in *Delgado v. State of New York*, 39 NY3d 242.” (underlining added).

This implicitly responds to the October 10, 2024 testimony/written statement of Reinvent Albany, the October 10, 2024 written statement of NYPIRG and a subsequent citizen e-mail⁸.

Each of the three sentences of this “finding” is fraudulent. The Commission does have “authority to address the issue of ‘outside income’ earned by Legislators” – and the commissioners would know this if they read the 2019 decision in [Barclay v. NYS Committee on Legislative and Executive Compensation](#), which is NOT a New York Court of Appeals decision. Rather, it is an Albany Supreme Court decision, [never appealed](#), whose citation is 110 NYS.3d 238, NOT “39 NY3d 342 (2022)”. It states, under the heading “Analysis”:

“...the Committee recommended that New York move towards a full-time Legislature along the lines of the ‘Congressional model,’ where outside income can make up only a modest portion of a legislator’s income and certain types of employment involving fiduciary relationships are not permitted (Report, pp. 10, 12-13).

In the Court’s view, the Committee permissibly acted within the scope of its broad authority and discretion in advancing these recommendations for reform as part of ‘its findings, conclusions, determinations and recommendations’ (Part HHH, §4[1]). However, based on the text and structure of the Committee’s enabling legislation, the Court concludes that the Committee’s recommendations to restrict the outside income and employment of State legislators did *not* take on the force of law and are merely advisory and/or conditional in nature.

...

In sum, the Committee was charged with examining a broad range of issues relating to legislative ‘compensation’ and submitting its ‘findings, conclusions, determinations and recommendations’ regarding such matters to the Legislature and the Governor (Part HHH, §§1; 4[1]). But the only recommendations that may

⁸ [Elizabeth Lerner’s November 2, 2024 e-mail](#) endorsing and repeating Rachel Fauss’ testimony that statewide and legislative electeds should get no raises until outside income is restricted.

acquire the force of law under Part HHH are those made to implement the Committee's determination of whether the salary and allowances of legislators warrant an increase. All of the Committee's other recommendations are just that — recommendations advanced for the consideration of policymakers, but not the law of the State of New York.

... The Court sees no infirmity in the Committee's 'holistic' consideration of these issues in the context of Part HHH's broad charge to conduct an 'examin[ation]' of legislative 'compensation' that considers 'all appropriate factors' (Part HHH, §§1; 2[3]). The Committee is, however, a creature of statute, and there is nothing in Part HHH that authorized it to recommend restrictions on outside income and employment that have the force of law. These policy matters remain reserved for the Legislature and the Governor.

Finally, while Part HHH did not authorize the Committee to issue legally binding recommendations regarding outside income and employment, the Committee had ample authority to address these issues under its enabling legislation. Specifically, Part HHH authorized the Committee to condition the phase-in of salary increases on the Legislature's 'performance' (*id.*, §2[4][b]), and the Committee found that its recommended restrictions on outside income and employment were an essential element of the Legislature's performance (*see* Report, p. 10[3]). Thus, there was no statutory impediment to the Committee conditioning the phase-in of salary increases upon the Legislature's enactment of its recommended restrictions on outside income and employment." (underlining added).

As for the Court of Appeals 2022 decision in [Delgado](#), which is 39 NY3d 242", the "clarif[ication]" is in its footnote 13, reading:

"The Committee's recommendations also included limits on outside compensation and activities, but Supreme Court and the Appellate Division struck those recommendations, and the State has chosen not to challenge those rulings ([2019 NY Slip Op 32723](#)[U], 11-16 [Sup Ct, Albany County 2019], *affd* 194 A.D.3d 98; *see also Barclay v New York State Comm. on Legislative and Exec. Compensation*, [65 Misc.3d 685, 701-703](#) [Sup Ct, Albany County 2019] [finding the recommendations on outside income restriction were advisory and did not take on the force of law]). Thus, all that is at issue here is the compensation for legislators and specified executive branch officers."

In other words, the Commission HAD "authority to address the issue of 'outside income' earned by Legislators", though such would be "advisory and...not take on the force of law".

In any event, the issue of "outside income" – the cause celebre of Reinvent Albany and NYPIRG – is BOGUS as, empirically, there is NO DIFFERENCE between legislators with outside income and those without – and this was expressly stated by [CJA's July 15, 2019 analysis of the Committee on Legislative and Executive Compensation's December 10, 2018 Report](#) (at pp. 21-22) and demonstrated by CJA's lawsuits then – and since.

Third, Fourth, and Fifth “Findings” : Executive Law §169 (at p. 7)

Third “Finding” (at p. 7)

“In reviewing the salaries of §169 employees, three problem areas arise:

- a) Commissioners were often paid less than the employees they supervised;
- b) The history of salary increases for unionized employees show an increase of 13.69% from 2022 to 2026. No such increase has been given to Commissioners; and
- c) Comparing State Commissioners to City of New York Commissioners show that City Commissioners generally receive a significantly higher salary

We have attached a series of charts in Addendum A outlining in detail these findings.”

This is a succession of frauds.

First, there are NO “§169 employees”. They are, as identified by Executive Law §169, “state officers”. Consequently, comparing them to “employees” is a false comparison, as they are not civil service hires, working their way up the ranks, covered by the [Civil Service Law](#)⁹ – as Commissioner Kovner implied they were after Chair Fahey’s “slideshow” at the October 10, 2024 hearing, in stating (Tr. 24-25):

“it’s the long term civil service managers upon whom the public really depends on to provide effective service of governmental functions and they are often overlooked and underrecognized and I think it’s vital particularly in a period in which we have as a society has sustained significant inflation and that’s not to say that the rest of the world hasn’t sustained more, but that we make a significant adjustment. I don’t have any particular proposal at this time, but that’s my general view.” (underlining added).

Second, the “detail” in the “series of charts in Addendum A” (at pp. 8-10)¹⁰ reveals that salary increases for Executive Law §169 state officers were just as recent as those for “statewide elected

⁹ Chair Fahey had himself recognized this at the June 27, 2024 organizational meeting, in stating: “these are people that are not civil servants, ...almost all appointed directly by the Governor or by a board that the Governor appoints (Tr. 9). Nonetheless, it was Chair Fahey who, almost without exception, referred to them as “employees”.

¹⁰ These are six charts exported from the Division of the Budget’s September 27, 2024 submission (pp. 2, 3, 6- 9).

officers”, *to wit*, January 1, 2021, with the first chart (at p. 8) reflecting subsequent increases for Tier C and Tier D.

Third, the purported “three problem areas”, neither individually nor collectively, constitute a “finding” that salary levels of Executive Law §169 state officers are “inadequate”, which, moreover, pursuant to [Chapter 60, Part E, of the Laws of 2015](#), could only be made in tandem with examination and evaluation of their other “compensation and non-salary benefits”, not even referred to.

Fourth, the “three problem areas” are not unique to §169 state officers, as opposed to New York’s four statewide executive officers, 213 state legislators, and thousand-plus judges, who are also not “employees” – all having subordinate civil service employees, some with salaries that are near equivalent or greater than theirs.

Here, too, the Commission’s November 7, 2024 meeting (Tr. 8-24) reveals the commissioners’ fraud, superficiality, and posturing with respect to the “three problem areas”. Thus, upon reiterating essentially the same three points, Chair Fahey immediately stated: “We received a proposal forwarded to us by Commissioner Megna that outlined proposed increases...”

On its face, [Commissioner Megna’s proposal](#) – uncalibrated to the salaries of the Governor, Lieutenant Governor, Attorney General, and Comptroller – was deficient, deceptive, and shocking – as would have been obvious to his fellow commissioners had they given it any competent attention. In addition to raising the salary levels of three of the four tiers, the proposal shifted most of the individual state officers into higher tiers, thereby effectively giving them further increases. It furnished no explication for either: not the basis for the disparate dollar salary increases for the tiers, their percentage increases, the evaluative process underlying the upward shifting of the various state officers – and what the new salary would be for each, as compared to what it currently was, not even furnishing the number of §169 state officers, necessarily including the membership figures for the boards and commissions of Tier D.

As revealed by Commissioner Megna’s remarks at the November 7, 2024 meeting, the guidepost for his proposal was his own sense of what was “appropriate”, even as he recognized that disparate salaries can be “okay” and not affect performance:

“Just an example I can speak from experience when I was commissioner of taxation and finance, the entire second floor executive suite of the building made significantly more than I did. It’s fine and it was ok, the department ran very well. But I think as, it just did not seem appropriate. ...” (Tr. 13-14).

To give a pretext of evidence for §169 salary increases for which the Commission had no sufficient, competent evidence, Commissioner Kovner noted “a letter from Katherine Garcia, Chief of Operations of the State, whose views are entitled to great weight in my view” – to which Chair Fahey responded: “Thank you. You know, I’m glad you mentioned Katherine Garcia’s letter. I forgot to mention that. It’s important to know.”

This was another fraud, as Ms. Garcia’s [November 4, 2024 letter](#) would have been entitled to no “weight” in any judicial forum – and all the more so because of her unexplained failure to present live testimony at the October 10, 2024 hearing. Indeed, her letter “in favor of a much-needed salary increase for New York State’s Commissioners and agency officials” exemplified its baselessness by not only concealing, entirely, the existing salary levels and other “compensation and non-salary benefits”, but stating “If we continue to not compensate them fairly, we risk not only losing the talented individuals that we have, but also risk not being able to attract the best and the brightest...”. In other words, Ms. Garcia made no claim that even a single §169 state officers had been lost on account of the current compensation or that top candidates had been deterred by thereof.¹¹

Fourth “Finding” (at p. 7)

“In the midst of these structural inequities, the purchasing power of §169 employees has significantly declined. Since February 2020 consumer prices have increased 21.4% (data from Bureau of Labor Statistics, CPI).”

Again, fraud. The “§169 employees” are state officers – and this “finding” does not purport that §169 salaries, then ranging from \$159,200 to \$220,000 were “inadequate”, let alone in conjunction with their other “compensation and non-salary benefits”, nowhere mentioned. And, of course, also

¹¹ Ms. Garcia’s November 4, 2024 letter further demonstrates that there is no problem “attract[ing] the best and the brightest” —as surely she considers herself to be – by referencing that her salary as “NYC’s Department of Sanitation Chief in 2020” was “significantly higher” than “what our state agency heads are making today”.

This is comparable to the SOLE testimony of an Executive Law §169 officer at the two 2018 hearings of the Committee on Legislative and Executive Compensation, recounted by CJA’s July 15, 2019 analysis of its December 10, 2018 Report, as follows (at p. 27):

“...the Committee had NO probative evidence that the ‘significant’ differences in salaries for commissioners elsewhere in government made it ‘difficult to recruit and retain Commissioners’ and that it was ‘difficult to retain talented staff’. Neither the Governor, nor anyone from the Executive Chamber, testified or furnished any written statement to the Committee. Nor did any commission head testify or submit a statement. Rather, only a single Executive Law §169 commission member, Diane Burman, came forward to testify – and her testimony, at the November 30, 2018 hearing, did not substantiate recruitment and retention difficulty inasmuch as she stated that she had taken ‘an over \$30,000 pay cut’ from the position she had held as Senate majority counsel, in order to serve on the Public Service Commission, which she termed her ‘dream job’. According to her, she was testifying ‘not about the money’, but about ‘fairness’.”

It may be noted that Ms. Garcia, who in 2021 was running for New York City mayor, was alerted to CJA’s July 15, 2024 analysis by [May 1, 2021](#) and [May 4, 2021 e-mails](#), to which CJA cc’d her, the latter addressed to the [New York Times](#), entitled: “Testing the Fitness of the Democratic Mayoral Candidates: Your today’s article ‘Amid a Rival’s Crisis, Kathryn Garcia Makes a Push’ (NYT, Michael Gold, 5/4/21)”

not mentioned are ANY income figures for New York, as, for instance, [U.S. census statistics for 2023](#), showing a *per capita* income of \$49,520 and median HOUSEHOLD income at \$84,578.¹²

Fifth “Finding” (at p. 7)

“The erosion of the value of the salaries of State employees not covered by negotiated contracts is one of the reasons that this Commission was created. Collective bargaining agreements have resulted in pay increases for State employees that will amount to almost 14% through April 2025.”

This is more fraud. The Commission was not created to provide salary increases to “State employees not covered by negotiated contracts”, as §169 is expressly for state officers. It pertains, mostly, to the Governor’s at-will appointive political hires, not civil service employees.

“IV. CONCLUSIONS” (at pp. 11-13)

This final section of the Commission’s Report, identically to the final section of its [December 4, 2023 Report](#) (at p. 10), is entitled “Conclusions”. It then begins “The Commission’s Recommendations:”, in other words, conflating “Conclusions” with “Recommendations” – and sets forth three:

First Recommendation (at p. 11):

“Statewide Elected Officials – No Pay Raises

This includes the Governor, Lieutenant Governor, Attorney General and State Comptroller.

Salaries shall remain at current levels:

- | | |
|------------------------|----------------------|
| a) Governor | \$250,000 Annually |
| b) Lieutenant Governor | \$220,000 Annually |
| c) Attorney General | \$220,000 Annually |
| d) State Comptroller | \$220,000 Annually”. |

These salary levels are the product of the “[false instrument](#)” [December 10, 2018 Report of the Committee on Legislative and Executive Compensation](#), whose flagrant statutory violations and frauds are particularized by [CJA’s July 15, 2019 analysis thereof](#), without challenge then or since.

Second Recommendation (at p. 11):

“Legislator Pay Raises – No Pay Raises

¹² That median household income, rather than CPI, is a better gauge is highlighted by [CJA’s July 15, 2019 analysis](#) (at pp. 23-24).

This includes Members of the Senate and the Assembly.

They shall remain at current level: \$142,000 Annually”

This \$142,000 salary is the product of fraud. On December 22, 2012, following upon the Court of Appeals’ fraudulent November 17, 2022 decision in *Delgado*, Senate and Assembly Leaders Stewart-Cousins and Heastie called the “lame-duck” legislature back into session, solely to raise legislative salaries that the “false instrument” December 10, 2018 Report of the Committee on Legislative and Executive Compensation had raised, by “force of law”, from \$79,500 to \$110,000 for CY2019. The particulars are furnished by [CJA’s January 18, 2024 Opposition Report](#) (at p. 24), hereinabove quoted (at pp. 6-8, *supra*), without challenge then or since.

Third Recommendation (at pp. 11-13):

“Executive Law §169 Commissioners – The four tiers of Commissioners shall be modified in two ways: salary and structure of the tiers

A) Salary

- i. Effective January 1, 2025 the salary of Tier A Commissioners shall be \$245,000 annually.
- ii. Effective January 1, 2027 each Tier A Commissioner shall receive a salary increase of 2% over their 2025 salary.
- iii. Effective January 1, 2025 the salary of Tier B Commissioners shall be \$225,000 annually.
- iv. Effective January 1, 2027 each Tier B Commissioner shall receive a salary increase of 2% over their 2025 salary.
- v. Effective January 1, 2025 the salary of Tier C Commissioners shall be \$200,000 annually.
- vi. Effective January 1, 2027 each Tier C Commissioner shall receive a salary increase of 2% over their 2025 salary.
- vii. Effective January 1, 2025 the salary for Tier D Commissioners shall be \$190,000 annually.
- viii. Effective January 1, 2027 each Tier D Commissioner shall receive a salary increase of 2% over their 2025 salary.

- B) Structure of the §169 tiers is as set out below; along with proposed modifications in the chart entitled ‘Crosswalk of §169 Titles to proposed New Tiers’. These changes shall take effect January 1, 2025. ...

Further, the chart below entitled ‘2024 Compensation Commission Proposal – Executive Law Section §169 Positions’ illustrates our recommended amendments to Executive Law §169. These amendments shall take effect January 1, 2025. ...”

Both parts of this “Recommendation” are fraudulent.

The Part A salary increases flagrantly violate Chapter 60, Part E, of the Laws of 2015 and are based on NO evidence, nor on remotely sufficient “findings”, as hereinabove detailed.

The Part B restructuring of the tiers is based on NO findings, NO evidence, and is NOT here explained or even verbalized. Instead, it must be interpreted from the charts. These show that it consists of elevating the majority of Executive Law §169 state officers from lower to higher tiers – effectively giving them even larger increases to their salary, since the higher tiers to which they are boosted are themselves boosted by increases. Indeed, six of these elevations are two-tier jumps, from Tier C to Tier A.¹³ There is also another two-tier jump, from Tier D to Tier B – and this for the so-called Justice Center, which is the Justice Center for the Protection of People with Special Needs.

Notably, the “Recommendation” here abandons the Report’s prior incorrect nomenclature of “§169 employees”, while not adopting the correct nomenclature of §169 “state officers”. Instead, it uses the term “Commissioners”, with the two charts using the words “Title” and “Positions”. Is this a shift from specified individuals to broader categories? That possibility¹⁴ is reinforced by the second chart of “recommended amendments to Executive Law §169”, replacing the “state officers referred to in executive law 169” with departments, offices, divisions, agencies, corporations, authorities, centers, councils. Thus, for example, it lists:

- “Department of Health” – not “commissioner of health”;
- “Education Department” – not “commissioner of education”;
- “State University of New York” – not “chancellor of the state university of New York”;
- “Division of State Police” – not “superintendent of state police”.

¹³ These are: (1) Adjutant General; (2) Commissioner and President of State Civil Service Commission; (3) Commissioner on Economic Development; (4) Executive Director of Housing Finance Agency; (5) Commissioner of Housing and Community Renewal; (6) Commissioner on Human Rights.

¹⁴ The expansion to deputy commissioners and the like was seemingly reinforced by Chair Fahey’s introductory remarks at the October 10, 2024 hearing ([VIDEO](#), [Tr. 2](#)), referring to:

“members in policy making positions in the Executive Department, primarily commissioners and deputy commissioners, which are covered under Section 169....” (underlining added).

This sleight of hand – which is exactly what the [December 10, 2018 Report](#) did by its “Fig. 3” chart (at p. 21) – was not commented upon by the commissioners at their final November 14, 2024 meeting ([VIDEO](#)), in their celebration of their own charts (Tr. 3, 5, 6, 11-13).

The so-called Justice Center is another sleight of hand. Although the first chart “Crosswalk of 169 Titles to Proposed New Tiers” (at p. 12) states, by a prefatory “Note”:

“This list excludes the Executive Director of the Justice Center, who is not listed in Section 169. They are a proposed Tier B addition.”,

this conceals what [Commissioner Megna’s proposal](#) had stated, also in a “Note”:

“the Commission does not have jurisdiction over the salary for the Executive Director of the Justice Center (although it was included in the last Commission’s findings)”.

It also conceals Chair Fahey’s solution to this jurisdictional problem – so baseless that it is not identified – wherein, at the November 7, 2024 meeting, he stated (Tr. 10):

“...I would propose to the commissioners that we include the executive director of the Justice Department’s Center which was included in the 2018 Commission and I believe it’s a legal basis to do that under the authority of our Commission.

The legislative authorities say that we can make changes in the law as we deem appropriate. And this has been done before by the 2018 Commission but I think that after we finish this section we should clarify so that there’s no confusion about that, that we’re taking a separate action doing that so that the executive director for the Justice Department’s Center would be included in the new section C.”

He thereafter repeated (Tr. 18):

“The next issue is the inclusion of the Justice Center within the 169 employees’ framework. I just want to take a vote on this just so we’re clear that we’ve acted within our authority to do that and to do make sure they are included,

thereupon stating, in response to Commissioner Weinstein’s question: “Can you explain why it had not been included”:

“I think historically that 169 was in effect long before the Justice Center was created. In the 2018 Commission, which was under slightly different legislation but the same language as the legislation that created this Commission in 2015, said that they had the authority to do it and they included the Justice Center. And the language that they relied on is the same language that I believe that we should rely on, and the language is that the actions of the commissioners have the effect of law unless overridden by the legislature before the effective date. So if we include the

Justice Center and clarify that it has been included and it should continue to be included within the Section 169 employees, then unless the legislature overturns that by January 1st of 2025 that's clarified for future commissions." (Tr. 18-19).

Upon the taking of a vote, Chair Fahey then stated (Tr. 24):

"So...the Justice Center, is included with 169 employees by action of the commission laws modified to do that and we'll include that in the final report."

This is fraud. As clear from *Barclay* and *Delgado*, the "force of law" provision of Chapter 60, Part E, of the Laws of 2015 pertains to increasing salary levels, whereas other recommendations, such as outside income or, in this case, the inclusion of the Justice Center, are advisory only.

Most of the discussion about the Justice Center, at the November 7, 2024 meeting, pertained to the tier into which the "2018 Commission" had placed it and the tier to which Commissioner Megna's proposal was moving it. The concern was that the elevation be no more than a single tier jump – and it was upon this that the vote was taken to ensure that the Justice Center would be added to Tier C, not Tier B:

(Tr. 23-24)

Chair Fahey: Okay. So you want to stick with one jump, Commissioners?

...

Comm'r Megna: I think that's what we're doing, so I just wanted to check. I think that's what's proposed –

Chair Fahey: ...So let me go back, take a step back and rearticulate it. The proposal would be they are currently in Tier D, the Justice Center, move them to Tier C and to make them part of the 169 employees also so there's clarification for the future.

Comm'r Egan: Yes.

Chair Fahey: Let's start that again, Jeremy, how are you with that?

Comm'r Weinstein: That's fine.

Chair Fahey: Is it okay?

Comm'r Weinstein: Mm –hmm.

Comm'r Kovner: We agree.

Comm'r Blank: Agree.

Comm'r Megna: Agree.

Comm'r Fontaine: Agree.

Comm'r Egan: Agree.

Yet, inexplicably, the Report's chart of "recommended amendments to Executive Law §169" (at p. 13) does NOT put the Justice Center in Tier C, as voted on by the commissioners at their November 7, 2024 meeting ([VIDEO](#)), but in Tier B, a double jump.

**EXECUTIVE LAW §169, THE DIVISION OF THE BUDGET,
& THE "ELEPHANT IN THE ROOM" –
THE HUGE SALARIES OF SUNY, CUNY & THE DEPARTMENT OF EDUCATION**

Nearly a full year earlier, at the Commission's last meeting on judicial compensation, on December 4, 2023 ([VIDEO](#), [Tr. 7](#)), Commissioner Weinstein asked, with respect to [Executive Law §169](#):

"I guess I'm being lazy, I can look it up, in terms of executive compensation, does anybody know offhand how many individuals fall into that category?"

To this, Chair Fahey responded:

"I don't know the number...I was going to reach out with Bob's help to the budget director after the first of the year and get a list of who the employees are – try to get a list of who the employees are – try to get some sense of what the executive is thinking. And then after that point forward that information to you because I think that's going to take a little more research...."

He thereafter repeated this, stating that the Commission's calendaring of April 17, 2024 for its organizational meeting on its second phase:

"...hopefully, will give me some time to meet with someone from budget to educate myself and put together material for the commissioners on the compensation issue...". (Tr. 9).

Did the "budget director" or "someone from the budget" give Chair Fahey a "list of who the employees are"? No list or other information about Executive Law §169 was included in the [January 29, 2024 e-mail](#) from "Gene" to the commissioners. None of its transmitted materials even mentioned Executive Law §169, let alone the numbers of persons within its purview ([Exhibit C](#)). Five months later the Commission posted the e-mail and its transmitted materials as "Documents distributed to Commissioners" for their organizational meeting, moved to June 27, 2024.¹⁵

¹⁵ The cancellation of the originally scheduled April 17, 2024 date for the organizational meeting is the subject of [CJA's January 29, 2025 FOIL request to the Commission](#).

No mention of the e-mail or the transmitted materials was made at the June 27, 2024 meeting. However, present at the meeting was “James Dewan from the New York State Division of the Budget”, introduced by Chair Fahey and asking that he give his “title[] and [] a brief sense of what your experience is” ([VIDEO](#), [Tr. 7](#)). Mr. Dewan stated:

“I am a unit head over the Division of Budget’s General Government and Workforce Unit. In that capacity, we manage any budgetary issues related to New York State’s workforce, as well as considering the issues that are presented by Executive Law with the payment of agency commissioners that are named in Section 169 of the Executive Law. I’ve worked for the State for nearly 20 years. Most of that experience has been with the Division of the Budget managing relations issues. That includes New York State’s negotiation with our public employee unions and looking at the cost of New York State’s workforce and considering how New York State compensates its workforce in terms of both salary and also the cost of fringe benefits as well.”

Mr. Dewan’s presence was for purposes of assisting the Commission with its “background research” (Tr. 16) and Chair Fahey stated the timetable and protocol (Tr. 21-22):

“if you can get it to us in the first week of September, we’ll have more questions then, that’s the way it works, and we’ll send you something in writing saying these are the kind of questions we have and we’ll follow-up with you and you and I can talk directly about it also”.

It was also expected that Mr. Dewan or some other representative of the Division of the Budget would attend and participate at the Commission’s October 10, 2024 public hearing – and the colloquy was as follows (Tr. 22):

Comm’r Kovner: And you can anticipate at a public hearing many people will testify and if you are attending on behalf of the Department, the Budget Department, you’ll be asked – there will be questions that you will be in the lead in terms of answering.

Dewan: Of course. I’d be happy to do that.

Chair Fahey: Something to look forward to.

...

Dewan: Mark that on my calendar...People have thoughts. It’s good to understand what people’s viewpoints are.

Yet more than three months later, at the Commission’s October 10, 2024 hearing, Mr. Dewan was not there and Chair Fahey began without making any reference to him or what he had furnished the Commission. CJA commented upon this, at the outset of its testimony, stating:

CJA: At your June 27th meeting that you held, you identified that Jim Dewine, Dewan, from the Division of the Budget, would be

furnishing some information germane to numbers, to where we're at insofar as salaries, compensation, who are the numbers of officers that are before you for salary increases. I understood that you would be posting that on your website. You would be receiving it by early September and positing it on the website. So is Mr. Dewan here today?

Chair Fahey: No.

CJA: Can we know what he has furnished you? You tasked him to provide –

Chair Fahey: Yes, you can

CJA: – you tasked him to provide documentation.

Chair Fahey: Slow down, yes, you can. The Compensation Commission information I have a series of slides that I'll make part of the record that he gave us in response to questions from the Commission, and all of that will be put on the website after the hearing. You'll have it, and you can review it in any way you would like.

The “series of slides” was the Division of the Budget’s September 27, 2024 submission, unsigned by any person, which Chair Fahey purported as its “response to questions from the Commission”. Completely missing what how many persons are covered by Executive Law §169 – and their number was neither inquired about nor mentioned at the hearing, other than by CJA’s testimony.

Nearly a month later, at the Commission’s November 7, 2024 meeting, Chair Fahey stated, for the first time, without contradiction from the commissioners, that he believed the number to be “about 40 employees.” (Tr. 8). A week later, at the Commission’s final November 14, 2024 meeting, he changed this to “about 52 people” (Tr. 13), again without contradiction from the commissioners.

It appears that Chair Fahey derived the “about 52 people” number from the bottom of the November 14, 2024 Report’s final chart of “recommended amendments to Executive Law §169” (at p. 13). The 52 figure is plainly incorrect, as it does not include the numbers of members of commissions and boards within the ambit of Executive Law §169. Calculating them, the number appears to be 85, assuming that the amending “force of law” chart for Executive Law §169 is not being manipulated to give subordinate personnel, such as deputy commissioners, the benefits of salary increases.

Part of the number count – and within the purview of the Commission – is [Executive Law §169.3](#), reading:

“3. Notwithstanding any other provision of this section or any other provision of law, the boards of trustees of the state university of New York and the city university of New York shall each establish and implement salary plans for the

chancellors, presidents and senior staffs of such state and city universities, respectively. The board of regents shall establish and implement a separate salary plan for the **president of the university of the state of New York**, setting forth the compensation to be received by the president for performing the duties of that office assigned by the rules of the regents or statute, which shall be in addition to the compensation received by such person pursuant to the provisions of subdivisions one and two of this section. Such salary plans shall be developed after consultation with the governor's office of employee relations and the division of the budget. Any increase in compensation for the positions set forth in this subdivision, not otherwise funded from any appropriation, shall be funded from reallocations of funds within the appropriations specifically identified by the aforementioned boards. Each board of trustees and the board of regents shall file a proposed salary plan report with the chairs of the senate finance committee and the assembly ways and means committee and the director of the budget at least sixty days prior to the effective date of such salary plan. Each salary plan report shall set forth the salary schedule, the dollar value of additional public compensation and other employment benefits that such positions would receive, the specific sources of funding to be reallocated for salary increases, the amount of increase to be provided to each position, the comparison salary data on which the plan is based, and such other information as the boards of trustees and the board of regents deem appropriate.” (bold and underlining added).

The [November 14, 2024 Report](#) makes no reference to the salaries of the SUNY chancellor or of the commissioner of education who is concurrently “president of the university of the state of New York” other than by its Addendum A chart entitled “NYC Comparable Salaries – Tier A” (at p. 10). The chart’s first two “§169 Salary” entries are for “SUNY Chancellor” at \$750,000, and “SED President”, at \$464,000, with an asterisk for each stating “Salary exceeds EXL §169 salary due to Board Action”.

Neither of these HUGELY disproportionate, outrageous salaries garnered the slightest comment from the commissioners, not at their final November 14, 2024 meeting, when the chart was appended to their Report, nor prior thereto, when that same chart was before them by the [Division of the Budget’s September 27, 2024 written submission](#) (at p. 8) and then by Chair Fahey’s “slideshow” of the submission at the October 10, 2024 hearing ([VIDEO](#)).

Any history of Executive Law §169 – of which the Report furnishes NONE – would have necessarily included the origin of its paragraph 3 and the salaries established pursuant thereto for the “chancellor of the state university of New York” and the “commissioner of education” – two of the “state officers” specified by its paragraph 1(a). Without this, the commissioners could not do what [Chapter 60, Part E, of the Laws of 2015](#) mandated:

“examine, evaluate and make recommendations with respect to adequate levels of compensation and non-salary benefits for...those state officers referred to in section 169 of the executive law”.

This the Commission did not do – while also concealing that this was also not done by the Committee on Legislative and Executive Compensation, which, instead, had disingenuously purported, by its [December 10, 2018 Report](#) (at p. 9), that such was “not within the scope of the report”, when it was within “the scope” of its materially-identical enabling statute, [Chapter 59, Part HHH, of the Laws of 2018](#).

Doubtless examination and evaluation of the salaries resulting from Executive Law §169.3 would reveal decades of exorbitant, larcenous salaries within New York’s Department of Education and SUNY and CUNY, without the slightest monitoring or oversight by the executive and legislative branches and “public protection” entities, whose corruption of lawful, constitutional governance CJA’s October 10, 2024 testimony ([Exhibit A](#)) established by its referred-to six lawsuits and complaints, accessible from its announced website link:

[“CJA’s Lawsuit vs the Latest Round of ‘False Instrument’
Judicial & D.A. Pay Raises & Opposition to Further Crimes
by the \(3rd\) Commission on Legislative, Judicial & Executive Compensation”](#).

Finally, as to the salary of the SUNY chancellor, Gannett newspapers reported, in an December 8, 2022 article entitled “[John King, former NY schools head and U.S. secretary of education, named SUNY chancellor](#)”:

“King’s annual salary will be \$750,000, compared to Jim Malatras, the last person to hold the position permanently, whose salary was \$450,000. King also is getting a bucketful of add-ons.”

Doubtless the SUNY Board of Trustees were emboldened with respect to taxpayer money and Mr. King’s appointment – having escaped investigation and consequences with respect to Mr. Malatras’ appointment – the subject of [CJA’s fully-documented August 31, 2021 complaint to JCOPE](#) against them, their Vice Chancellor and Chief Operating Officer Robert Megna, and their Chair Emeritus of the Board of Trustees -- Exhibit E to the June 6, 2022 verified petition in *CJA v. JCOPE, et al.*, which, on November 23, 2022 was “thrown” by its first fraudulent decision.

FINAL COMMENT & FOIL

In the early evening of January 28, 2025, as this Opposition Report was being finalized, the [Albany Times Union](#) published an article on its website, “[NY Education Department leader received \\$155K pay raise](#)”, stating, in pertinent part:

“State Education Commissioner Betty A. Rosa quietly received a pay increase of \$155,000 within the past six months...

Payroll records on file with the state comptroller’s office indicate that Rosa went from making \$334,000 in 2021 to receiving \$464,000 a year after a salary increase in August. Another pay increase of \$25,000 went into effect at the beginning of January, lifting Rosa’s annual salary to \$489,000.

In a statement explaining the pay raise — which went into effect without public notice — JP O’Hare, a spokesman for the state Education Department, ...[said] the state Education Department consulted with the Division of Budget and the governor’s Office of Employee Relations, and also provided notice to lawmakers on the Senate Finance Committee and the Assembly Ways and Means Committee, O’Hare said.

...

Rosa’s pay bump was quietly authorized by the Board of Regents after it conducted a review last year and determined that a \$130,000 annual pay raise was warranted based on “national and state data.” The board did not take a formal vote on the salary increase, which O’Hare said was consistent with other budget requests. He initially said details of the review would not be made public, but then on Tuesday afternoon provided the records in support of the decision-making process.

...

As her official salary for education commissioner is set by statute, increases must go through her title as president of the University of the State of New York.”

The next day, January 29, 2024, the Albany Times Union published a no less shocking article “[N.Y. Education Commissioner Betty A. Rosa justifies 155K pay raise](#)”. Beneath a photo of Commissioner Rosa captioned “A pay increase for state Commissioner of Education Betty A. Rosa did not come up during lawmakers’ questioning at a hearing on education policy in Albany”, the article stated, in pertinent part:

“...Rosa spoke to reporters outside a scheduled budget hearing on education funding, during which lawmakers in the state Senate and Assembly did not mention the \$130,000 increase that the state’s Board of Regents authorized for Rosa in 2024. Another \$25,000 pay raise went into effect in January, though that boost will also affect commissioners of major state agencies overseen by the executive branch, including the departments of health, labor and transportation.

...

She also appeared to question the timing of the Times Union’s reporting on the pay bump — an article that was [published online Tuesday](#) — and said the agency had notified Gov. Kathy Hochul’s office and the Division of Budget about the raise in September.”¹⁶

The \$130,000 pay raise that Commissioner Rosa received in August 2024 explains the discrepancy in the \$334,000 salary listed for her in the pages on New York of the “[Individual information for each state’s executive salaries](#)” that “Gene” had furnished by his [January 29, 2024 e-mail to the commissioners](#) and the chart at p. 10 of the Division of the Budget September 27, 2024 submission,

¹⁶ The Albany Times Union followed these two articles with an editorial, on January 31, 2025, “[Ms. Rosa’s big raise](#)”. Other reporting has included two New York Post articles: “[New York’s top school chief defends hush-hush \\$155K raise – while not mentioning nearly \\$120K pension](#)” (January 28, 2025) and “[NY top school chief’s secret \\$155K raise sparks outrage from GOP pols: ‘Unwarranted and offensive’](#)” (January 31, 2025).

indicating her salary as \$464,000, with an asterisk “Salary exceeds EXL §169 salary due to Board Action”.

Did the Division of the Budget not alert the Commission to what this would mean, pursuant to Executive Law §169.3, namely, that unless the Commission expressly excluded the “SED President” from such salary increase recommendations as it might make pertaining to Executive Law §169.3 state officers, she would get its increase on top of the \$130,000 salary raise she had gotten in August 2024?

The Commission’s November 14, 2024 Report makes no such exclusion of the “commissioner of education” from its \$25,000 increase to Tier A, thereby enabling, on January 1, 2025, that increase to be added to Department of Education Commissioner Rosa’s \$464,000 salary.

To enable further exposition of the true facts as to how the Commission operated, assisted in its frauds and statutory violations by the Division of the Budget and Office of Court Administration, in particular, CJA’s has filed a series of FOIL requests. Those pertaining, in particular, to Executive Law §169 are:

- [CJA’s January 14, 2025 FOIL request to the Governor](#) – “the Governor’s ‘plan’ pursuant to the Dec 10, 2018 Report of the Committee on Legislative & Executive Compensation”;
- [CJA’s January 15, 2025 FOIL request to the Commission and the Division of the Budget](#) – “The Division of the Budget’s Assistance to the Commission on Legislative, Judicial & Executive Compensation in the Second Phase of its Work”;
- [CJA’s January 21, 2025 FOIL request to the Division of the Budget and the Senate and Assembly](#) – “The Salary Plans of SUNY, CUNY, & the Board of Regents Pursuant to Executive Law §169.3”;
- [CJA’s January 21, 2025 FOIL to the Workers’ Compensation Board](#) – “The salaries & other compensation/‘fringe benefits’ of the Chair, Vice-Chair, & Members of the Workers’ Compensation Board”;
- [CJA’s January 21, 2025 FOIL to the Public Service Commission](#) – “Salaries & Other Compensation/‘Fringe Benefits’ of the Chair & Members of the Public Service Commission”;

CJA’s other FOIL requests are, at present:

- [November 1, 2024 FOIL to Governor](#) – “Gov. Hochul’s Appointment of R. Nadine Fontaine to a Court of Claims Judgeship, Etc.”

- [November 1, 2024 FOIL to Senate](#) – “Governor Hochul’s ‘whopping 25 judicial nominations’ that the Senate Judiciary Committee approved at its June 5, 2024 meeting – &, specifically, R. Nadine Fontaine & Brian Haak”
- [CJA’s January 22, 2025 FOIL to Senate & Assembly](#) – “the National Conference of State Legislatures’ 2023 Survey on Legislator Compensation”;
- [CJA’s January 29, 2025 FOIL request to the Commission](#) – “Cancellation of the Commission’s April 17, 2024 ‘organizational meeting’ & its rescheduling to June 27, 2024”;
- [CJA’s January 29, 2025 FOIL request to the Commission](#) – “Records of the Commission’s ‘mailings and notifications to the media’ of its October 10, 2024 public hearing on legislative and executive compensation”;

CJA’s webpage for these FOIL requests, on which such responses as have been received – and as will be received – are posted on CJA’s website is [here](#).¹⁷

¹⁷ <https://www.judgewatch.org/web-pages/searching-nys/force-of-law-commissions/part-e-chapter60-laws-2015/2023-24/jan31-25-opposition-report-and-FOIL.htm>.

1 STATE OF NEW YORK

2 _____X
3 NEW YORK STATE COMMISSION on Legislative, Judicial and
4 Executive Compensation

5
6 HEARING

7 _____X
8 PROCEEDINGS held at the New York State Bar
9 Association, Albany, New York, in the above-entitled matter on
10 the ^{12th} day of October, 2024 at 12:00 PM.
11 *10/2*

12 BEFORE: EUGENE M. FAHEY, Chair
13 JEREMY S. WEINSTEIN, Commissioner
14 VICTOR A. KOVNER, Commissioner
15 R. NADINE FONTAINE, Commissioner
16 THERESA EGAN, Commissioner
17 HELENE BLANK, Commissioner
18 ROBERT MEGNA, Commissioner

19
20
21
22
23
24
25
26 REPORTED BY: Cynthia A. West

P R O C E E D I N G S

COMMISSIONER FAHEY: We're going to start.

Good morning everyone. I'm retired Court of Claims Judge Eugene M. Fahey, and I am the Chairperson of the Commission on Compensation for the State of New York. Our purpose as a group is to address the salaries for policy makers in New York State. We have previously met for the last year and dealt with the question of pay raises for members of the judiciary and those pay raises were recommended and finalized in April of this year.

The question before the Commission now is whether or not there should be pay raises in any form for any of our statewide elected officials, members of the Legislature, and also members ⁱⁿ ~~and~~ policy making positions in the Executive Department, primarily Commissioners and Deputy Commissioners, which are covered under Section 169 of the New York State Budget statutory outline and addresses essentially policy makers.

First I ^{want to} ~~would~~ -- and we're meeting this morning in the New York Bar Association facility, and I want to thank the Bar Association for ^{their} ~~your~~ previous assistance on our ^{former} ~~forum~~ and public hearings ^{and} ~~and~~ for ^{their} ~~your~~ help and assistance with the public hearing today.

The Commission itself is a non-political

1 Commission and the Bar Association has been a great
 2 assistance to us in providing the facility that reflects
 3 the nonpartisan nature of the work before the Commission.

4 I also want to begin ^{by I've} ~~by~~ introducing ^{ed} myself, I
 5 ^{am going to} ~~would~~ start on my far left and introduce the other
 6 Commission members that are with us today, and who their
 7 ^{appointing} ~~employing~~ authority was. Mr. Robert Megna ^{is} to my left,
 8 ^{he was} appointed by the Governor, Nadine Fontaine, is also to my
 9 left appointed also by Governor Hochul, to my right is the
 10 former member of the judiciary, appointed by the Senate
 11 Majority Leader, Jeremy Weinstein, and to my next left is
 12 Helene Blank, ~~who is~~ a distinguished attorney who was
 13 appointed by Chief Judge Rowan Wilson, after Helene is
 14 Theresa Egan now Acting Judge, who was appointed by the
 15 Assembly Speaker, and finally the very distinguished
 16 attorney both locally and nationally, Victor Kovner, who
 17 was appointed by Governor Hochul.

18 We're going to begin today with remarks from a
 19 member of the public, Elena Sassower. But I just want to
 20 point out that both on the website and through mailings
 21 and notifications ^{to} ~~of~~ the media, the Commission has clearly
 22 made itself available for any input that the public wants
 23 ^{take or} ~~to~~ make on this issue.

24 Other than that, I think it's time for us to go
 25 directly to Ms. Sassower. ^{am going to} I ~~will~~ ask all ~~the~~ public

1 speakers starting with Ms. Sassover to limit their remarks
 2 to approximately ten minutes. So, I want to ask, Ms.
 3 Sassover^{'s here} -- good morning, ^{Ms. Sassover} We can't hear you. We have to
 4 unmute you. Give us one second. Can you say something?

5 MS. SASSOVER: Yes. Thank you. Good morning.

6 COMMISSIONER FAHEY: Whenever you are ready.
 7 You have ^{about} ten minutes. Go ahead.

8 MS. SASSOVER: Thank you. But I am a little bit
 9 confused, I had understood that Assemblyman Brian
 10 Cunningham would be testifying.

11 COMMISSIONER FAHEY: Yes, that's right. He was
 12 scheduled to testify, ^{and we} haven't heard from him this
 13 morning and you were next up on the list. ~~So are you~~
 14 ready?

15 MS. SASSOVER: ^{And} So I understand that I was the
 16 only other person apart from Assemblyman Cunningham?

17 COMMISSIONER FAHEY: ^{You're right} Yes, that's correct.

18 MS. SASSOVER: So I'm it?

19 COMMISSIONER FAHEY: Yes.

20 MS. SASSOVER: ^{Okay.} So, it's clear that you have no
 21 basis to proceed. You are -- last year I testified at
 22 your October 13th hearing on judicial compensation and
 23 before beginning my testimony I handed up documents in
 24 substantiation of my testimony. As I am testifying
 25 virtually I cannot hand up any documents for this hearing

1 on Legislative and Executive compensation; however,
2 everything is posted on the Center for Judicial
3 Accountability's website www.judgewatch.org, accessible ~~by~~
4 *via the* a prominent center link on the home page, entitled CJA's
5 lawsuit against the latest round of false instrument
6 judicial and DA pay raises and opposition to further
7 crimes by the Third Commission on the Legislative, Judicial
8 and Executive Compensation.

9 Before beginning last year I asked you, Chair
10 Fahey, whether you wished to swear me in so that I ~~can~~ *could* give
11 testimony under oath, you declined. But I am ready to be
12 sworn at this hearing. *Umm -*

13 COMMISSIONER FAHEY: *Yeah,* Ms. Sassover, I'm not going
14 to swear you in. This isn't a judicial proceeding and
15 it's simply to gather information and to allow you to
16 express your opinion on this issue, so I'm not going to
17 swear you in.

18 You can proceed.

19 MS. SASSOVER: *Last* Well, last year I said ~~at~~ *at* the
20 hearing on judicial compensation was permeated by fraud by
21 the witnesses, the judges and the judicial pay raise
22 advocates. At this hearing, apparently no one but myself
23 is testifying. So, obviously they do not believe that
24 they have any evidence to proffer of any nature in support
25 of any increases in their salaries. Now, that is the only

1 inference that can be drawn. I would further point out
 2 that at your June 27th meeting that you held, you
 3 identified ~~the~~ ^{Not} Jim Dewan^{Dewan}, "De-wine", from the Division of
 4 the Budget, would be furnishing some information germane
 5 to numbers, to where we're at insofar as salaries,
 6 compensation, who are the numbers of officers that are
 7 before you for salary increases. I understood that you
 8 would be ~~posting~~ that on your website, ~~and~~ you would be
 9 receiving it by early September and posting it on the
 10 website.

11 So is Mr. Dewan here today?

12 COMMISSIONER FAHEY: No.

13 MS. SASSOWER: Can we know what he has furnished
 14 you? You tasked him to provide?

15 COMMISSIONER FAHEY: Yes, you can. ^{yes}

16 MS. SASSOWER: You ^{tasked him to} can provide documentation?

17 COMMISSIONER FAHEY: Slow down, yes, you can.

18 The Compensation Commission information I have a series of
 19 slides that I'll make part of the record that he gave us
 20 in response to questions from the Commission, and all of
 21 that will be put on the website after the hearing. ^{And} You'll
 22 have it, and you can review it ⁱⁿ any way you would like.

23 So go ahead.

24 MS. SASSOWER: Well, okay. I emphasize that
 25 the statute requires you to examine adequate levels of

1 compensation and non-salary benefits in order to determine
2 whether increases were warranted. I refer^{red} you to Section
3 (2) paragraph (1) Section (2) (A) (2) (B), I further
4 identify^{ed} that in addition to these to -- I additionally
5 identified that you ^{are} ~~were~~ required to take into account all
6 ~~of the~~ appropriate factors and that the most important
7 threshold factor is corruption in office, whether or not
8 the public officers, at that time judges, but it's equally
9 applicable here, Whether the officers whose salaries you
10 are examining are doing their job. Because we don't pay
11 people, we ~~we~~ don't increase salaries for public officers who
12 are not doing their job, who are corrupt. In fact, that
13 is unconstitutional.

14 Well, as you know, the public officers, the
15 Legislators whose salaries are before you, the statewide
16 electeds whose salaries are before you, are corrupt, and
17 their corruption has been the subject, since 2012, of six
18 separate lawsuits, five of which were commenced by the
19 Center For Judicial Accountability, one, involving the
20 Legislature suing with respect to the sham Commission to
21 Investigate Public Corruption, which covered up everything
22 in which the Center For Judicial Accountability sought
23 intervention. Your duty is to make, as I said a year ago,
24 your duty is to make Findings of Fact and Conclusions of
25 Law with respect to the evidence in these lawsuits of the

1 corruption of the Legislature, the statewide electeds, none
 2 of ~~overwhelm~~ ^{whom} are operating at a Constitutional level,
 3 demonstrated by those lawsuits, and, of course, the
 4 judiciary, as well, who are respondent-defendants in some of
 5 those lawsuits, and which ~~grew~~ ^{grew} all those cases by
 6 fraudulent judicial decisions.

7 By way of update, and to ~~--~~ ^{and} bearing in mind the
 8 limitations that you are imposing for presentations, I
 9 wish to identify ~~what is taking place~~ ^{what has taken} since I testified a
 10 year ago. I identified that the -- I highlighted the case
 11 of Center for Judicial Ability against JCOPE, et al, and
 12 the et al is the Governor, the Attorney General, the
 13 Comptroller, ~~and~~ all the Legislators. I identified that
 14 that case, involving the integrity of the public protection
 15 entities charged with protecting the public against the
 16 corruption of the Legislators, against the corruption of
 17 the Executive Officers, ~~having~~ ^{had} been thrown by fraudulent
 18 judicial decisions and was at the Appellate Division, Third
 19 Department. So now I can alert you, and you will find all
 20 these substantiation posted on the website, ~~and~~ that that
 21 case at the Appellate Division Third Department was thrown
 22 by the Appellate Division, Third Department. In that case
 23 as in all the prior cases, the Attorney General corrupted
 24 the judicial process with litigation fraud, and was
 25 rewarded by fraudulent judicial decisions completely,

1 Entirely.

2 The second update I wish to provide, of course,
 3 is that a further lawsuit was commenced since I presented
 4 last year and that lawsuit you are very familiar with,
 5 because you are the first respondent/defendants, ~~and~~ along
 6 with, the Legislative, Executive Public Officers whose pay
 7 you are considering. They covered up for you, for what
 8 you did, in the first phase of your work, regarding
 9 judicial compensation where you ~~~~~ violated totally the
 10 statute in disregard of everything I said at the hearing,
 11 that was demonstrated in an opposition report which went
 12 through what you did -- your fraudulent, statutorily-
 13 violative, unconstitutional report recommending judicial
 14 pay raises that had the force of law. That was ~~~~~
 15 detailed, line-by-line in an opposition report, furnished
 16 by way of a complaint against you, to all those Public
 17 Officers, the Legislators, the Governor, the Lieutenant
 18 Governor, the Attorney General, the Comptroller so that
 19 they ^{could} ~~can~~ take appropriate steps, necessary steps, essential
 20 steps *consistent with their duties*

21 COMMISSIONER FAHEY: Ms. Sassow~~er~~ --

22 MS. SASSOW~~ER~~: They ignored it as you know, and
 23 as a result of what they did, you have been sued and they
 24 have been sued together, ~~and~~ that case was filed in ~~in~~
 25 ~~large~~ -- *March*

1 COMMISSIONER FAHEY: ~~Ms. Sassower, Ms.~~ *Ma'am?*

2 ~~Ma'am? Ma'am? Ms. Sassower --~~

3 MS. SASSOWER: 18th, and it has been thrown, by
4 fraudulent judicial decisions.

5 COMMISSIONER FAHEY: Ms. Sassower, hold on, hold
6 on, one second, one second.

7 MS. SASSOWER: So you have no, you cannot --
8 not only do you not have any evidence of any deficiency,
9 *Not* ~~that~~ any -- *their pay, -- salary*

10 COMMISSIONER FAHEY: Ms. Sassower?

11 MS. SASSOWER: *they are not earning*
12 ~~The~~ salaries they are already
given --

13 COMMISSIONER FAHEY: Ms. Sassower, you are out of
14 time, ~~but~~ I'm going to give you four more minutes, all
15 right? So you can finish up your remarks.

16 Go ahead.

17 MS. SASSOWER: *Umm --*
so -- go ahead ma'am --

18 COMMISSIONER FAHEY: *1* You have four more minutes.

19 MS. SASSOWER: So, not only are the public
20 officers whose salaries you are evaluating corrupt and
21 must be indicted for their corruption, okay, there is
22 nothing that warrants pay increases for them. But they
23 have insulated themselves from accountability by
24 corrupting, enabling the corruption of the public
25 entities, public protection *formerly* ~~of~~ entities, ~~formerly~~ JCOPE

COELIG,
 1 now, the Commission on Ethics and Lobbying Government, the
 2 Inspector General, the Legislative Ethics Commission,
 3 which ^{were} the body ^{ies} sued in the lawsuit that I just reported
 4 now to you, was thrown by the Appellate Division, Third
 5 Department. You have been ^{the} subject of complaints to those
 6 entities and the attorney grievance committees, the
 7 District Attorneys, the US Attorneys, based upon what has
 8 been going on.

9 Everything is posted on the website.

10 COMMISSIONER FAHEY: All right. Ms. Sassover,
 11 I am going to stop you now. Thank you for your comments.
 12 We have ^{that I'm} been told we have another speaker, is that
 13 correct? So, we're going to put our next speaker on. Ms.
 14 Sassover thank you. If you want to file anything else you
 15 are welcome to do that. *Mindy, where's our next speaker?*

16 MS. FAUSS: Hi, good afternoon, my name is
 17 Rachel Fauss and I am the Senior Policy Advisor for
 18 Reinvent Albany. Apologies, I wasn't certain that you
 19 would be accepting remote testimony. I will do my best to
 20 summarize my remarks so I don't take too much of your
 21 time. You do have my full written remarks.

22 COMMISSIONER FAHEY: Ms. Fauss, I will give you
 23 ten minutes. All right?

24 MS. FAUSS: Okay. Thank you. Appreciate it.
 25 Thank you for the opportunity to speak before you today.

1 STATE OF NEW YORK

2 -----X

3 NEW YORK STATE COMMISSION on Legislative, Judicial
4 And Executive Compensation

5 -----X

6 New York City Bar Association

7 42 West 44th

8 New York, New York 10036

9 October 13, 2023

10
11 B E F O R E:

12 EUGENE M. FAHEY, Chair

13 JEREMY S. WEINSTEIN, Commissioner

14 VICTOR A. KOVNER, Commissioner

15 R. NADINE FONTAINE, Commissioner

16 THERESA EGAN, Commissioner

17 HELENE BLANK, Commissioner

18 ROBERT L. MEGNA, Commissioner

19 THERESA L. EGAN, Commissioner

20
21
22 Shanasia Ilgner

23 William Leone

24 Senior Court Reporters

1 Our next speaker is Ellen Sassower.

2 MS. SASSOWER: Elena Sassower.

3 MR. FAHEY: Oh, I'm sorry, Elena Sassower, ~~the~~
4 Center for Judicial Accountability. And we have one more
5 speaker after that, Sebastian Daggart.

6 MS. SASSOWER: May I?

7 MR. FAHEY: Sure.

8 MS. BLANK: We'll pass them along ourselves.

9 MS. SASSOWER: We started ~~with~~ with the statute, since
10 ~~six~~ ^{seven} of you are lawyers, one, a former judge of the Court
11 of Appeals and --

12 MR. WEINSTEIN: Why don't you speak at the
13 microphone.

14 MS. SASSOWER: Another one, a 25-year jurist. The
15 starting point is always the statute. Since you have power
16 under the legislative law would you like to swear me in to
17 give probative testimony under oath?

18 MR. FAHEY: That won't be necessary.

19 MS. SASSOWER: Well, as I said when I testified ~~in~~ ^{at}
20 past hearings, this hearing has been permeated by fraud by
21 the judges and by the judicial pay raise advocates. And it
22 starts with the statute. So I've handed up the statute,
23 which was enacted through the budget, unconstitutionally, and
24 by fraud, a ground for challenge. But let's start with the
25 language of the statute. ^{Aside} from the fact that you were

handing up
seven
document
sets

yes of course, you can
if you just give it to us -

wait until you
^

1 supposed to be established as of June 1st, months ago, and
2 you held your organizational meeting on October 2nd, ~~your~~
3 charge is adequacy, adequate levels of compensation and non-
4 salary benefits. I refer you to Section 2 paragraph 1. I
5 refer you to Section 2 paragraph 2, A, 1 and 2.

6 Nobody here testified that -- well, inferentially
7 they implied that ^{their sal-}their salary is not adequate. In order to
8 make that outrageous inference, such as Chief Administrative
9 Judge Zayas, who can't afford to buy a new car, since 2013,
10 and his wife also can't afford -- okay, so what -- none of
11 them identified ~~their~~ salaries that they've been making,
12 that they've been paid.

13 So all of these judges are making upwards of 190,
14 200, 220, \$230,000 a year. They didn't identify their
15 salary. And you didn't identify their salary. Because that
16 salary is obviously--nobody could look at that salary and say
17 it's not adequate, even in New York City. And of course they
18 don't just get salary, they get compensation. You are
19 ~~Commissioner~~ on Compensation. Compensation is larger than
20 salary, right. Pensions, social security, healthcare,
21 payments, which brings up the package \$20,000 a year?
22 30,000? What is it?

23 You didn't get any testimony about non-salaried
24 benefits. And when you put forward your materials in
25 connection with your October 2nd organizational meeting you

1 only ^{posted} ~~put~~ them as to salary, knowing that that was a fraud.
2 And you knew that the 2011 report of the Commission on
3 Judicial Compensation and the 2015 report of the Commission
4 on Legislative, Judicial and Executive Compensation on which
5 you are relying and ^{the} pay raise, judicial pay raise advocates
6 and judges are ^{relying} ~~allowed~~ are false instruments.

7 Because none of those commissions, okay, and the
8 other incarnations examined anything but salary, in violation
9 expressly, directly, of the statute requiring examination,
10 evaluation of salary, compensation and non-salaried ^Y benefits
11 clearly, made no findings, ^{no det-} because they couldn't and raise
12 salary. The judges took and have known since 2011 and all
13 government officials in their highest levels have known that
14 these pay raise reports are false instruments, violative of
15 ^{a succession of federal laws} ~~-- appeals~~. They are a larceny of the public fisc, but
16 let's go further.

17 You allowed them to make claims for what they want.
18 They want higher salaries. We all want more money. We all
19 want more money. But that's not your charge, to give them
20 what they think they deserve, what they would like, what
21 they believe they're entitled to. Your charge is adequacy
22 and you haven't even inquired about non-salaried ^Y
23 compensation non-salaried ^{from} benefits, apart of them not
24 identifying them ^{the} identifying the salary figures -- ^{BT}

25 MR. FAHEY: Hold on. Are you okay with that

2 MS. SASSOWER: Yes, I'm sorry. *Thank you.*

4 MS. SASSOWER: Let's go to the factors that you are
5 required to take in to account. The statute requires that
6 you take in to account all appropriate factors including and
7 the six enumerated factors are all financial and economic.
8 But they aren't the exclusive factors. There are other
9 appropriate factors, right. The most appropriate factor,
10 the threshold factor, is whether judges are doing their job,
11 okay.

24 There needs to be findings of fact and conclusions
25 of law as to what has been going on. That case is Exhibit A

1 as to the corruption that ^{infests} effects the judiciary at all
2 levels. But I'm also going to leave with you where we're at
3 ^(lifting up other case records) now, B, Exhibit B is the continuation of that case which is
4 Center for Judicial ^{JCOPE} Accountability against ^{JCOPE} Jacob et al and
5 involves among other things complaints that ~~Jacob~~ sat on
6 involving the budget, involving the pay raises,
7 ~~These~~ ^{JCOPE is} commissions and over -- within the
8 jurisdiction of ~~Jacob~~, the ^{JCOPE} Commissioner on ~~Judicial~~ Conduct,
9 and one of the complaints that ~~Jacob~~ sat on, okay, actually
10 purported to dismiss, was a complaint against Judge Fahey and
11 his brethren on the Court of Appeals for their fraud, for
12 their corruption ^{in Center} ~~incentive~~ for ^{at} Judicial Accountability
13 against Cuomo, DiFiore. That case is now ^{at} the Appellate
14 Division Third Department.

15 I'm leaving ~~you~~ ^{you} with the appeal brief so you can
16 see, once again, how the judiciary comports itself when the
17 issue is it's self-interest in pay raises and what has been
18 going on. Your duty and you have subpoena power and you
19 must make findings of fact and conclusions of law with
20 respect to the, with what ^{your charge is} ~~you are charging~~ under the
21 statute, and the evidence. And the evidence in these two
22 major cases ^{brought in} ~~broaden~~ the public interest on behalf of the
23 People of the State of New York is wholesale corruption
24 within the judiciary at every level, which is exactly what I
25 said in 2011 when I testified before the ~~Commission~~ on

1 Judicial Compensation, and I said ~~that~~ the judiciary throws
2 cases by fraudulent judicial decisions and I gave the case
3 file evidence at that time, which was the lawsuit ^{brought} ~~broadened~~
4 the public interest on behalf of the People of State of New
5 York against the Commission on Judicial Conduct, which was
6 thrown --

7 MR. FAHEY: Ms. ~~Sassower~~, Ms. Sassower --

8 MS. SASSOWER: -- by fraudulent judicial decisions
9 going up to the Court of Appeals.

10 MR. FAHEY: ^{Slow down.} You've gone 11 minutes. Everybody's
11 ^{Hold on.} got ten minutes. I'm going to give you a minute to wrap up.

12 MS. SASSOWER: Thank you. ^{Thank you}

13 MR. FAHEY: Go ahead.

14 MS. SASSOWER: So I will simply identify what I am
15 leaving you with just as I presented the evidence to your
16 predecessor commissions. I am leaving you with and the
17 original, this is the entire case ^(lifting box w/ case record) of Center for Judicial Accountability

18 MR. FAHEY: Just leave it there. ^{You don't have to carry it.}

19 MS. SASSOWER: -- against Cuomo, DiFiore, with causes
20 of action as to the unconstitutionality, the fraud, the
21 unlawfulness of what has gone on here with respect to these
22 pay commissions, which you are replicating, duplicating, I'm
23 leaving that with you. The original is at the Court of
24 Appeals, subpoena it. I am leaving you with the appellate
25 record in the lawsuit against ^{JCOPE} Jacob, et al, involving

^(lifting it)

1 complaints filed with ~~Jacob~~ ^{SCOPE} involving these commissions,
2 this scheme, the corruption ~~and~~ ^{in the judicial} -- involving the attorney
3 general, corrupting the judicial process.

4 ^(brings to the podium another document)
Lastly, I don't want you to believe that the
5 corruption infesting the judiciary is only in cases of
6 magnitude such as the cases that I have here presented. I
7 have a, a independent report that I wrote about a family
8 court case out of Monroe County, a mother called me in
9 distress because her child had been taken away from her.
10 And she begged me to assist her.

11 Without charge I, I examined ^{the record} -- and I wrote a
12 report that was, ^{furnished} ~~first~~, it's a sealed file. I think you
13 should take a look at what goes on, and you should know this
14 is only the first piece of it. But the corruption involving
15 this report at the family court level, at the Appellate
16 Division Fourth Department from which you come, Chair Fahey,
17 you need to take testimony. You have subpoena power. You
18 need to -- you need to examine the corruption in the
19 judiciary --

20 ^{Ms. Sassower}
MR. FAHEY: I'm going to ask you to wrap it up now.

21 MS. SASSOWER: Thank you.

22 MR. FAHEY: Thank you for your presentation.

23 MS. SASSOWER: Thank you, again, ^{Center} for
24 Judicial Accountability, The website is www.judgewatch.org.
25 The documents substantiating my presentation are accessible

1 from the center link entitled New York's Force of Law
2 Commissions-~~Un~~Constitutionality and ~~Fraud~~ in Plain Sight.

3 MR. FAHEY: Thank you. Our next speaker is
4 Sebastian Doggart, executive director of the families civil
5 liberties union.

6 MR. DOGGART: Good afternoon, I feel a little like
7 a cockroach on a wedding cake here because I think I'm one
8 of the only non attorneys here, I'm not an attorney. I'm a
9 journalist and a filmmaker and the executive director of the
10 family civil liberties union and independent nonpartisan,
11 nonprofit group assisting families across the U.S. who have
12 been damaged by the court system. The application for pay
13 raises for judges should just be, should not just be denied.
14 There should be a complete suspension on any -- to judges
15 against whom there are legitimate complaints and until
16 effective judicial oversight is introduced.

17 Now over the last decade the FCOU has presented
18 ample evidence, at least 15 separate reports to see why the
19 New York Unified Court system is causing untold harm to our
20 families. It has done so to the New York assembly, to the
21 commission on judicial conduct, to the chief judge, to the
22 attorney grievance committee, to the OCA and to the
23 inspector general and nothing has been done. Now, all of
24 you but one of the commissioners are attorneys, all judges,
25 right, and --

EXHIBIT C

Comment on the six items posted on [the Commission's webpage of its meetings](#) as "Documents distributed to Commissioners" for their June 27, 2024 meeting – these being the same items as are listed by the [January 29, 2024 e-mail from "Gene" to the commissioners](#) as being sent to them both by e-mail and mail. None of it was discussed, or even mentioned, at the June 27, 2024 meeting or thereafter:

- ["Overview prepared by Council of State Governments"](#), a 4-page print-out of the [Council of State Governments](#) entitled "State Executive Salaries: Regional and State-level Comparisons", from January 20, 2023, stating: "**At the state-level, New York has the highest gubernatorial salary at \$250,000...**" (at p. 2); "**New York has the highest lieutenant governor salary at \$220,000...**" and for attorney general, "**New York has the highest salary at \$220,000...**" (at p. 3),¹ and concluded (at p. 4) with "Data notes" stating: "**Annual salaries reported do not include benefits and other compensation for selected state officeholders....**";
- ["Salary charts for statewide elected officials"](#), 9 pages of charts of salaries of the governors, lieutenant governors, attorneys general, and comptrollers (treasurers) for each of the 50 states – **incorrectly identifying the New York comptroller's salary, for 2023, as "\$210,000"**, when it was \$220,000 – the source stated as "Ballotpedia";
- ["Individual information for each state's executive salaries"](#), a 190-page printout from Ballotpedia, furnishing salaries of "state government" of the 50 states. The entry for New York, at pp. 125-129, starts out by identifying the 2023 "Legislator salaries" as "\$142,000/year" and "**The exact amount members receive for per diem is unknown.**" Its salary of Comptroller DiNapoli is incorrectly listed as **\$210,000**. The "**Median household income**" for New York is listed as **\$59,269 and for the U.S. as \$53,889**, with the "Source" identified as "U.S. Census Bureau, 'American Community Survey' (5-year estimates 2010-2015)". **It also incorrectly lists, with the same \$205,000 salary, the seven members of the New York State Public Service Commission, within Executive Law §169. Their correct salaries, in 2023, are the subject of CJA's January 21, 2024 FOIL request to the Public Service Commission** entitled "**Salaries & Other Compensation/'Fringe Benefits' of the Chair & Members of the Public Service Commission**";
- ["2022 Legislative compensation"](#), a 13-page printout from the [National Council of State Legislatures](#) (NCSL), as "Updated July 12, 2022", prefaced by the following:

"Annually, NCSL collects legislative salary, mileage reimbursement and per diem information from all 50 states. In 2022,

¹ As for "treasurer, it indicates "the highest salary" as "**Tennessee** at \$222,252"

NCSL also collected data from Washington D.C. and the territories. This information is presented in the table below.

Every other year, NCSL conducts a broader survey on legislative compensation, including information on office supplies and benefits. This more extensive survey was last completed in 2021.” (bold added).

The data for New York, on the 6th page of the printout, states: “Base Salary” \$110,000; “Mileage (cents per mile)”: “58.5/mile. Tied to federal rate.”; “Session Per Diem Rate”: “For non-overnight travel: \$61/day. For overnight stays: \$183/day.”

- [“2023 Legislative compensation”](#), a 23-page printouts from NCSL, as “Updated August 11, 2023”, prefaced by the following:

“Legislative compensation varies across legislatures. The lowest annual state legislator salary in 2023 was \$100 and the highest annual state legislator salary in 2023 was \$142,000. In 2023, the average annual base salary for a state legislator was \$43,494. This represents a 6% increase in average annual legislator base salary since 2022. **However, salary is only one component of legislator compensation. Each year, NCSL collects data from all 50 states, the U.S. territories, and Washington D.C. on legislative salaries and per diems. This year, NCSL conducted a broader survey to learn more about additional compensation for legislative leaders, insurance and retirement benefits, and office and staffing allowances in additional (sic) to regular compensation. The tables linked to below provide nationwide data for each of these categories.**” (bold and italics added).

The data for New York, on the 14th page of the printout, states: “Base Salary” \$142,000; “Mileage (cents per mile)”: “65.5 cents per mile. Mileage reimbursement is tied to the federal rate.”; Session Per Diem Rate”: **“Members receive per diem, amount not available”**.

An annotating “(viii)” states:

“Data about legislator salary was obtained from news media. Data about legislator mileage reimbursement and per diem was obtained from the Office of New York State Comptroller Guide to Financial Operations Section XIII.4C and Senate Guidelines on Per Diem”.

This is the subject of [CJA's January 22, 2025 FOIL request to the Senate and Assembly](#) entitled "the National Conference of State Legislatures' 2023 Survey on Legislator Compensation".

- "[Executive Branch salaries from Book of States 2021](#)" is 1-page on which is a handwritten notation: "The Book of States 2021 p. 134 Table 4:11", listing, for each of the 50 states, the salaries for governors, lieutenant governors, attorneys general, comptroller. **The listed salaries for New York are incorrect, as, effective January 1, 2021, the governor's salary was \$250,000, NOT \$225,000, the lieutenant governor's salary was \$220,000, NOT \$210,000, the attorney general's salary was \$220,000, NOT \$210,000, and the comptroller's salary was \$220,00, NOT \$190,000. Also incorrect are the 2021 salaries of state officers, within Executive Law §169, as for instance, the secretary of state, and the adjutant general, whose salaries were then \$200,000, NOT \$160,000.**