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BY E-MAIL

October 27, 2015

TO: Joint Commission on Public Ethics (JCOPE)
Records Access Officer/Director for External Affairs Walter McClure

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

RE: FOIL/Records Request IV - Assisting the JCOPE/LEC Review Commission with a methodologically-sound review: JCOPE's written delegations of power to its executive director and, specifically, with respect to 15-day letters

Yet again continuing my public-spirited, volunteer assistance to the JCOPE/LEC Review Commission—

Executive Law §94(9)(a) empowers the Commission to :

“...delegate authority to the executive director to act in the name of the commission between meetings of the commission provided such delegation is in writing, the specific powers to be delegated are enumerated, and the commission shall not delegate any decisions specified in this section that require a vote of the commission.”

Not requiring a vote of the commission, and therefore eligible for delegation, are the 15-day letters, by which the Commission commences an initial inquiry with respect to complaints received or initiated, pursuant to Executive Law §94(13)(a). In pertinent part, Executive Law §94(13)(a) states:

“Investigations. If the commission receives a sworn complaint alleging a violation... by a person or entity subject to the jurisdiction of the commission...or if the commission determines on its own initiative to investigate a possible violation, the commission shall notify the individual in writing, describe the possible or alleged violation of such laws and provide the person with a fifteen day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law. ...” (underlining added).

Pursuant to Public Officers Law, Article VI [Freedom of Information Law (F.O.I.L.)], this is to request all publicly-available written delegations of “specific powers” that JCOPE has conferred on its executive director – particularly the power to determine whether a sworn complaint, received by JCOPE, alleges violations within its purview, for which **issuance of a 15-day letter is mandatory**.

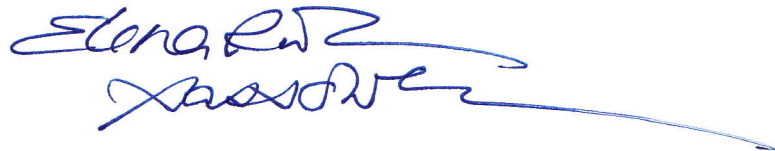
On that subject, the New York City Bar Association and Common Cause/New York, in their March 14, 2014 report, Hope for JCOPE (at p. 26), recommended and urged JCOPE to “promptly...issue” a delegation of authority to the executive director with respect to these 15-day letters – believing that “Greater Staff Autonomy” was what was needed at JCOPE to foster a more independent, active ethics body.

Apparently, the City Bar and Common Cause believed that JCOPE had not previously delegated power to its executive director with respect to the 15-day letters. Since JCOPE’s First Year Report and 2012 and 2013 Annual Reports contain no information about any delegations of power to its executive director – just as JCOPE’s subsequent February 2015 Report and 2014 Annual Report are devoid of any such information – how would the City Bar and Common Cause know whether a delegation had been made? Did they – or anyone else – ever make a FOIL request to JCOPE for its written delegations of power to its executive director, including with regard to 15-day letters? If so, pursuant to FOIL, please furnish such FOIL requests – and JCOPE’s responses thereto.

Public Officers Law §89.3 requires your response “within five business days” of receipt of this request – and I would appreciate if you e-mailed it to me at elena@judgewatch.org.

For your convenience, this letter, Executive Law §94, JCOPE’s above-cited reports, and Hope for JCOPE are posted on CJA’s webpage for JCOPE and the JCOPE/LEC Review Commission, accessible from our homepage, www.judgewatch.org, via the prominent link: “Exposing the Fraud of the Commission to Investigate Public Corruption”.

Thank you.

A handwritten signature in blue ink, appearing to read "Elena Ruz", with a long horizontal flourish extending to the right.

cc: JCOPE/LEC Review Commission
New York City Bar Association
Common Cause/New York
Committee on Open Government
The Public