

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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December 21, 2021

TO: Emily Logue/Director of Investigations and Enforcement
New York State Joint Commission on Public Ethics (JCOPE)

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

RE: FOUR QUESTIONS: Your December 20, 2021 letter – #21-226:
CJA’s November 24, 2021 conflict-of-interest ethics complaint against state officers and employees of the New York State Commission on Judicial Conduct for violations of Public Officers Law §74 in dismissing CJA’s February 7, 2021 judicial misconduct complaint pertaining to the citizen-taxpayer action *CJA v. Cuomo...Schneiderman...DiFiore* and with respect to CJA’s April 26, 2021 “further and supplementing complaint” pertaining to the citizen-taxpayer action *Delgado v. State of New York*

This responds to your two-sentence [December 20, 2021 letter](#), reading in full:

“On November 24, 2021, the New York State Joint Commission on Public Ethics (‘Commission’) received a complaint by you alleging misconduct by employees and members of the New York State Commission on Judicial Conduct.

This letter is to inform you that the Commission satisfied the statutory requirements of Executive Law §94.13(a) by voting to close the matter on December 14, 2020.”

I don’t see anything in Executive Law §94.13(a)¹ using the terminology “voting to close the matter”.

¹ Executive Law §94.13(a) states, in pertinent part:

“(a) Investigations. If the commission receives a sworn complaint alleging a violation of section... seventy-four of the public officers law...by a person or entity subject to the jurisdiction of the commission...the commission shall notify the individual in writing, describe the possible or alleged violation of such laws, provide a description of the allegations against him or her and the evidence, if any, supporting such allegations...; the letter also shall set forth the sections of law alleged to have been violated and provide the person with a fifteen day period in which to submit a written response, including any evidence, statements, and proposed witnesses, setting forth information relating to the activities cited as a possible or alleged violation of law. The commission shall, within sixty calendar days after a complaint...is received..., vote on whether to commence a full investigation of the matter under consideration to determine whether a substantial basis

Are you saying that JCOPE members voted NOT “to commence a full investigation of the matter under consideration to determine whether a substantial basis exists to conclude that a violation of law has occurred”?

If so, this required:

- FIRST, that JCOPE staff had performed their ministerial function, based on my sworn November 24, 2021 complaint of Public Officers Law §74 violations by persons within JCOPE’s jurisdiction, of sending them 15-day letters; and
- SECOND, based on the written responses to the 15-day letters, that JCOPE staff had furnished the JCOPE members “prior to such vote” with “information regarding the likely scope and content of the investigation, and a subpoena plan, to the extent such information is available”.

Did JCOPE staff perform both of these, as required by Executive Law §94.13(a)?

And what determination was made – presumably by JCOPE staff – as to whether JCOPE’s jurisdiction extends to the unsalaried members of the Commission on Judicial Conduct – as opposed to its salaried administrator and clerk? Your December 20, 2021 letter does not say, let alone advise that in “voting to close the matter” JCOPE members took the corrective step of instructing the Commission on Judicial Conduct to modify its website so as to avoid the misimpression that its commissioners fall within JCOPE’s jurisdiction.

By the way, prior to voting, did JCOPE members and staff disclose the individual and collective conflicts of interest they would face by a yes vote “to commence a full investigation...to determine whether a substantial basis exists to conclude that a violation had occurred” – a vote that NO impartial JCOPE member could vote against as the November 24, 2021 complaint furnished the particularized facts and EVIDENCE establishing the Public Officer Law §74 violations *prima facie* and in a matter of magnitude and profound significance to the People of the State of New York – and, assuredly, the written responses to 15-day letters would have made that further obvious.

I await your answers to the foregoing four questions.

Thank you.

s/ELENA RUTH SASSOWER

exists to conclude that a violation of law has occurred. The staff of the joint commission shall provide to the members prior to such vote information regarding the likely scope and content of the investigation, and a subpoena plan, to the extent such information is available. Such investigation shall be conducted if at least eight members of the commission vote to authorize it. ... Where the subject of such investigation is a state officer or state employee, at least two of the eight or more members who so vote to authorize such an investigation must have been appointed by the governor and lieutenant governor. ...” (underlining added).