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County of Erie

MARK C. POLONCARZ
COMPTROLLER

March 16, 2011

Mr. John Greenan
Commissioner, Department of Personnel
County of Erie, NY
95 Franklin Street, 6th Floor
Buffalo, NY 14202

RE: Rate of pay for the Erie County Attorney

Mr. Greenan:

In my memorandum dated and delivered to you on Thursday morning, March 10, 2011, I informed you that Mr. Jeremy A. Colby, the recently appointed county attorney, has been hired at an annual salary (\$149,831) in excess of the \$99,226 salary which was approved by the Erie County Legislature in Erie County's 2011 Budget. Therefore, his annual salary should be adjusted accordingly as soon as possible.

As of this correspondence, our Office has neither received a response acknowledging receipt of the aforementioned memorandum nor confirmation that the Department of Personnel has adjusted the county attorney's rate of pay in accordance with our request. The SAP system confirms that Mr. Colby continues to be scheduled to receive salary compensation at the incorrect hourly rate of \$72.034 (which translates to an annual salary of \$149,831).

While the Erie County Charter provides for the appointment of a county attorney, our Office disagrees with the county executive's assertion that he can unilaterally set the attorney's rate of pay in any amount of his choosing.

Under Section 2608 (A) of the Erie County Charter, the Legislature has the authority to reduce a salary without executive approval, and did so in this situation by reducing the county attorney's annual salary to an amount not to exceed \$99,226 (i.e., an hourly rate of \$47.705). The county executive cannot veto or otherwise override the Legislature's reduction. As such, our Office will not authorize a salary payment to Mr. Colby until his annual salary is properly adjusted to an amount not to exceed \$99,226.

Please notify Michael Szukala, Deputy Comptroller-Audit and Control and me upon completion.

Sincerely,

Lorne Steinhart on behalf of Erie County
Lorne Steinhart
Deputy Comptroller, Accounting and Cash Management
Comptroller Mark C. Poloncarz

cc: Hon. Christopher C. Collins, County Executive
Hon. Mark C. Poloncarz, Esq., Comptroller
Gregory G. Gach, Budget & Management Director
✓ Erie County Legislature
Erie County Fiscal Stability Authority