



ERIE COUNTY LEGISLATURE

HON. JOHN J. MILLS
CHAIRMAN OF THE LEGISLATURE
11TH DISTRICT LEGISLATOR

May 23, 2016

Mr. Michael A. Siragusa
 Erie County Attorney
 95 Franklin Street, 16th Floor
 Buffalo, New York 14202

Dear Mr. Siragusa:

Thank you for your letter dated May 18, 2016. Though I appreciate your response, I am disappointed with your failure to respond to the questions therein.

You cite attorney-client privilege as the reason you are unable to answer certain questions. As your letter correctly points out, individual elected officials are your clients, as well as Erie County as a whole. However, you ignored your responsibility to Legislator Lorigo, and never contacted him prior to obtaining two detrimental legal opinions. Furthermore, your discussions with the County Executive belie any claim of privilege with me or the County Legislature. My colleagues and I believe we have an absolute right to have our questions answered.

Per your letter, due to the perceived conflict of interest, you hired outside counsel. Once you (and Erie County) hired outside counsel, Erie County became the client. This grants you absolute authority to release all requested documentation to the County Legislature. As such, I am again requesting that you do so.

In addition, if you were concerned about any conflicts of interest, why would you choose to engage the former law firm of County Executive Poloncarz on this sensitive issue? Did you not perceive that as a conflict? Was it also not a conflict that many of the attorneys cited in the invoices are also donors to this County Executive? There are hundreds of law firms in Erie County capable of reviewing the issue. **Why Kavinoky Cook, LLP?** I have also heard that you sought the second opinion from Hodgson Russ, LLP to lend legitimacy to the Kavinoky Cook, LLP opinion due to these very issues. That begs the following questions:

- Did you disagree with the Kavinsky Cook, LLP opinion?
- Did you feel their opinion could be biased?
- If so, why hire Kavinsky Cook, LLP in the first place?
- Why the need (and expense) for two law firms?

According to the documents obtained during our internal investigation, the first contact with Kavinsky Cook, LLP was January 7, 2016 and first contact with Hodgson Russ, LLP was January 20, 2016. Your first contact with Legislator Lorigo was January 21, 2016—**seventeen days after** you first contacted outside counsel. How do you justify that?

Invoice records show Erie County was charged by Kavinsky Cook, LLP for 34 actions on this matter that were deemed billable in those seventeen days, many of which were direct contact with your office. Why was Legislator Lorigo not contacted during this timeframe, even if to notify him you were seeking an outside opinion on an issue directly involving him? Based on your own admitted obligation to represent elected officials, that is what should have happened. Again, why didn't it?

In your letter of May 18, 2016 you indicate that you believed the issue to be "resolved" after your January 21, 2016 meeting with Legislator Lorigo. However, there are numerous billable items with each firm **after** that date. Why?

I understand that Legislator Lorigo provided you with an opinion he obtained from Phillips Lytle LLP, but what about the items billed between January 21, 2016 and your receipt of the Phillips Lytle LLP opinion? What exactly was being sought there? If the issue was "resolved," as you say, there should have been no need for further communication or expense.

Through your office, the taxpayers of Erie County spent \$25,000 or more on this issue. As a result, I require the following:

- Who advised you that Legislator Lorigo was appointed West Seneca Town Prosecutor?
- When were you advised of his appointment?
- Instead of wasting \$25,000 in taxpayer money, why didn't you contact Legislator Lorigo?
- Why didn't you contact the County Clerk's Office or the District Attorney's Office?
- What was the County Executive's involvement in the matter?
- At any time, as the legal advisor to the County and to Legislator Lorigo, did you consider that engaging the County Executive's former firm and current donors on a matter as serious as this, was in fact a conflict of interest being created by Erie County?
- Was the County Executive involved in the decision to hire Kavinsky Cook, LLP?
- Why did you wait **seventeen days** from initially contacting outside counsel before contacting Legislator Lorigo, someone you acknowledge you have an obligation to represent?
- Why wasn't your office capable of researching this issue in-house, at no additional cost to the taxpayers?

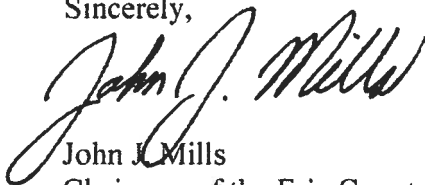
It is no secret that the County Executive and Legislator Lorigo have been on the opposite side of many issues. My understanding is that this issue was brought about by the County Executive. I

further understand that he is the one who chose his former law firm, Kavinoky Cook, LLP, and had conversations with them regarding this issue. My concern is that the County Executive may have used your office for political gain.

I am trying to work with you and give you the opportunity to release the appropriate information to alleviate any and all concerns on this issue. Please answer all the questions listed above and provide all documentation requested. I remind you the Legislature reserves the right to compel appearance of all parties involved at a future meeting of the Legislature to address this matter.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, reading "John J. Mills". The signature is written in a cursive style with a large, stylized "J" and "M".

John J. Mills
Chairman of the Erie County Legislature

cc: Honorable Members of the Erie County Legislature
Honorable Mark C. Poloncarz
Honorable Christopher L. Jacobs
Honorable Stefan I. Mychajliw
Acting District Attorney Michael J. Flaherty, Jr.