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ERIE COUNTY COMPTROLLER HON. STEFAN I. MYCHAJLIW

August 9, 2016

Hon. John J. Mills
Chairman of the Erie County Legislature
92 Franklin Street – 4th Floor
Buffalo, New York 14202

RE: Legal Bills and the Role of the County Attorney

Dear Chairman Mills:

I am in receipt of your correspondence dated August 5th, 2016, pertaining to the serious issue of whether or not the administration abused their authority in spending thousands of dollars on outside counsel to eliminate a political opponent of the County Executive. As Comptroller, I share your concerns. Your belief that Mr. Poloncarz's hand-picked County Attorney's testimony before your honorable body was "false and inconsistent" is a stinging rebuke to the power-hungry actions of a County Executive more interested in settling political scores than governing responsibly.

In your letter, you rightfully refer to hiring these outside firms to investigate a sitting legislator as "an example of unethical and inappropriate practices seeking to benefit a political agenda." It is clear to me that you are correct, and I agree with your conclusion that the integrity of the County Attorney's Office is seriously compromised to the point where it would be foolish for the Legislature or any other independently elected officials to rely on their counsel.

In a previous letter, you asked my office to hold off on paying nearly \$30,000 in legal fees to the law firms associated with this matter, on the suspicion that hiring outside counsel in this matter was political in nature and did not benefit the public good. I agree with your suspicion and honored your request. Unfortunately, as long as officials from the administration are willing to lie and mislead your honorable body, under oath by nature of their positions as officers of the court, we will never truly know whether or not these bills are legal and a justifiable expense of the county's risk retention fund.

We already know they are improper and inappropriate, but that opinion is not a justification to continue to withhold payment to private firms that were contracted to write legal opinions for the County Executive. Knowing that we will never get answers to our questions, and the ones we do get are questionable in terms of their veracity, I agree with your thought that we must move on. I have instructed my Accounts Payable staff to pay the outstanding bills. Fortunately for the County Executive's former law firm, they are an enrolled member in our very successful Supplier Pay program, which will get them paid quicker.

In conclusion and as we try to move on from this incident, I ask that you consider setting up a working group meeting with myself, the Sheriff, the Clerk and the District Attorney so together we can work with the Legislature to explore options to ensure our offices are treated fairly going forward. When the current County Executive was the Comptroller, his office proposed dedicating counsel directly to represent only his office. While serving on a different floor, in a different day, while he was trying to hold a County Executive accountable, he then valued the importance of independence when it comes to counsel. Perhaps we should take his lead and find a way to guarantee our rights to counsel are protected and taxpayer funded political witch hunts don't occur again.

Thank you for your time and attention to this matter. I know it has been truly frustrating to both you and Majority Leader Lorigo. It is unfortunate that the County Executive's second term started off contentiously and continues to be confrontational. Let's work together to put the focus back on serving taxpayers and not political agendas.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stefan I. Mychajliw', with a horizontal line extending to the right.

STEFAN I. MYCHAJLIW
Erie County Comptroller

Attachments: Letter from Chairman Mills

cc: Honorable Members of the Erie County Legislature
County Executive Mark C. Poloncarz
County Clerk Christopher L. Jacobs
County Sheriff Timothy B. Howard
District Attorney Michael Flaherty



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ERIE COUNTY LEGISLATURE

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

August 5, 2016

Dear Comptroller Mychajliw,

Thank you for your previous communications regarding County Attorney Michael Siragusa's hiring of outside counsel regarding Majority Leader Lorigo. As you undoubtedly recall, opinions were sought as to whether Mr. Lorigo could hold positions of both an Erie County Legislator and West Seneca Town Prosecutor.

Notwithstanding the validity of those opinions, there has been considerable discussion on this issue since Mr. Siragusa testified at the Legislature about his role in the process of hiring outside counsel in June of this year. Mr. Siragusa's testimony was full of inconsistencies and documented falsehoods. Furthermore, his answers were not direct or clear, but created more questions than answers.

Hiring Kavinoky Cook, LLP (the County Executive's former employer) to investigate a Legislator, regardless of who made the decision, will remain an example of unethical and inappropriate practices seeking to benefit a political agenda at the expense of the taxpayers. This incident, as well as a series of other incidents, has made it difficult to trust that the Legislature is treated fairly, impartially and honestly by the County Executive and his hand-picked County Attorney.

Unfortunately, the decision to hire outside counsel has resulted in approximately \$25,000.00 in legal fees to Erie County taxpayers. Despite being an inappropriate use of power, a binding contract was entered into between Erie County and Kavinoky Cook, LLP. As such, these legal fees must be paid and I therefore ask the Comptroller's office to remit payment. To be clear, this request does not condone or endorse the wrongdoing that I believe occurred.

I appreciate all the work that you have undertaken to examine this matter. I firmly believe that taxpayers should not have to pay for poor decision making on behalf of elected officials. Therefore, we must work to ensure that something this egregious does not happen again.

Sincerely,

Chairman John Mills
Erie County Legislature