

Gunter, Dixie

From: Dumas, Ed
Sent: Friday, August 13, 2010 5:09 PM
To: Gunter, Dixie
Dear Legislators:

This is written in response to your intention to vote on a procedural motion to hire private attorney Anton Borovina to lead an investigation of the Suffolk County Ethics Commission. The Executive Branch has formally registered its objection to this particular attorney as we believe he is severely conflicted on this matter.

As you are aware, and has been reported in the media, Mr. Borovina represents former Deputy County Executive Paul Sabatino in a matter presently before the Ethics Commission. Mr. Sabatino is accused of violating the Ethics Code's "revolving door policy" for accepting an engagement with the Association of Municipal Employees union within two years of his termination from county employment. Mr. Borovina has allegedly received acquiescence from his client, Mr. Sabatino, to allow him to represent the county in the Ethics Commission review, but it cannot be overlooked that the County of Suffolk will also be Mr. Borovina's client upon his hiring. Mr. Borovina's hiring should therefore be prohibited.

Further, an impartial review can only be undertaken by an attorney who has not reached a predetermined conclusion. Mr. Borovina has been a frequently-quoted source in *Newsday* stories on the topic of the Ethics Commission and its actions in connection with the County Executive's filing of a state financial disclosure form in satisfaction of local filing requirements. Absent any independent investigation or legal research, and contrary to the opinions offered by the state's foremost ethics scholars who have concluded that the Ethics Commission acted in conformance with state law and in fact had no authority to exercise any discretion on the matter, Mr. Borovina has already concluded that the commission and the County Executive have acted improperly.

How is it possible for the Legislature consider an attorney to investigate the Ethics Commission who has already publicly stated his conclusion? Such an appointment would taint any action of your panel.

In conclusion, if it is the Legislature's intention to needlessly spend taxpayer dollars to conduct a review of the County's Ethics Commission it could easily conduct on its own, then surely, of the thousands of qualified attorneys residing and practicing in Suffolk County, it can find one who is not so seriously conflicted and who has not already reached his conclusions absent an impartial investigation.

The county's interest in having an impartial, unbiased attorney acting on its behalf on the review of the Ethics Board would be severely compromised where the attorney is simultaneously representing the conflicting interests of Mr. Sabatino. It is in Mr. Sabatino's interests to see the reputation of the Commission sullied to mitigate the impact of any potentially negative decision the Commission might render against him.

In essence, Mr. Borovina will appear before the Ethics Commission asking members to render a favorable opinion for Sabatino at the same time Mr. Borovina is investigating the very same Commission members. A more blatant textbook example of conflict is hard to imagine. Mr. Sabatino can not waive the conflict that is created by the dual interests and the adverse impact it has on the county.

Ed Dumas
Chief Deputy County Executive
631.853.5718
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Not Subject to FOIL disclosure

Categories: Documents



steve

Eliot Bloom <eb.efbesq@gmail.com>
To: Eliot Bloom <eb.efbesq@gmail.com>

Fri, Apr 27, 2012 at 4:08 PM

Please scroll down to see more cases.

	County	Index Number	Case Status	Plaintiff	Plaintiff Firm	Defendant	Defendant Firm	Appearance Date	Justice	
1	Albany	001164/2011	Disposed	Gallerani	Anton J. Borovina	Levy	Eric T. Schneiderman	05/13/2011	JAMES P. GILPATRIC	M
2	New York	401384/2002	Disposed	SPITZER, ELIOT	ATTORNEY GENERAL - N.Y. STATE	ECENERGY ENERGY COMPANY,	ANTON J. BOROVIDA	09/22/2003	LEBEDEFF, D.A.	M D
3	Queens	023062/2010	Disposed	MCCABE, GRACE G.	BOROVINA, ANTON J. (LAW OFFICE	BREEZY POINT COOPERATIVE ETAL	ANDREA G. SAWYERS, ESQ.	08/08/2011	COMPLIANCE CONF JUDGE	M
4	Suffolk	009613/1981	Disposed	BILANSKI, EDWARD J JR	ANTON J. BOROVIDA, ESQ.	KNUTSON, PETER	CARTIGLIA CONNOLLY & RUSSO	03/18/1988	VINCENT J. HAND	M
5	Suffolk	020939/1984	Disposed	BOROVINA, BETTY JEAN	SCHEYER & JELLENIK, ESQS.	BOROVINA, JOSEPH	ANTON J. BOROVIDA, ESQ.	03/27/1989	JOSEPH COLBY	M
6	Suffolk	033873/2007	Active	MORICE, ANDREW P.	ANTON J. BOROVIDA, ESQ.	GARRITANO, BRUCE A.	STEPHEN R. JELLENIK, ESQ.	06/14/2012	CALENDAR CONTROL PART JUSTICE	M D
7	Suffolk	023564/2008	Disposed	HOMESALES, INC.	STEVEN J. BAUM, ESQ.	GARRITANO, BRUCE,	ANTON J. BOROVIDA, ESQ.	06/23/2010	JOSEPH C. PASTORESSA	M D
8	Suffolk	032938/2009	Disposed	NOYACK BAY AVENUE LLC	ANTON J. BOROVIDA, ESQ.	DONAGHY, JAMES	O'SHEA MARCINCUK & BRYUN LLP	12/16/2011	THOMAS F. WHELAN	
9	Suffolk	039177/2009	Active	WELLS FARGO BANK, N.A.,	MCCABE, WEISBERG & CONWAY, PC	GARRITANO, BRUCE,	ANTON J. BOROVIDA, ESQ.	01/27/2010	JEFFREY ARLEN SPINNER	M
10	Suffolk	003705/2010	Active	TEITELBAUM, WILLIAM A.	ANTON J. BOROVIDA, ESQ.	TRINUS SYSTEMS, INC.		05/12/2010	JOSEPH C. PASTORESSA	M
11	Suffolk	030397/2010	Active	GAFFNEY, ROBERT J.	ANTON J. BOROVIDA, ESQ.	DOWLING COLLEGE	PINKS ARBEIT BOYLE & NEMETH	05/03/2012	ARTHUR G. PITTS	M D
12	Suffolk	038891/2010	Disposed	GALLERANI, DONALD R	ANTON J. BOROVIDA, ESQ.	LEVY, STEVE	DENNIS M. COHEN, ESQ.	12/22/2010	WILLIAM B. REBOLINI	M
13	Suffolk	042715/2010	Active	SWAICKI, JOSEPH JR.	ANTON J. BOROVIDA, ESQ.	LAMA, ALFRED M.		02/04/2011	THOMAS F. WHELAN	M D
14	Suffolk	045318/2010	Disposed	PEREZ.	ANTON J.	LEVY, STEVE.	BERKMAN	04/21/2011	PAUL J	M

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SUFFOLK COUNTY ETHICS COMMISSION



Thomas G. Nolan, Esq., Chairman
Craig J. Tortora, Esq., Commissioner
Dr. Joseph A. Laria, Commissioner

Susan A. Flynn, Counsel
Jessica H. Hogan, Co-Counsel
Vivian Keys, Secretary to the Ethics Commission

Hon. Alfred M. Lama, Executive Director
Daina Sindone, Secretary to the Executive Director

August 16, 2010

Hon. William Lindsay
Presiding Officer, Suffolk County Legislature
William H. Rogers Legislative Building
Veterans Memorial Highway
Hauppauge, New York 11787

Hon. Mr. Lindsay and Members of the Suffolk County Legislature:

It has come to the attention of the Commission that the Suffolk County Legislature is considering hiring Anton Borovina as "independent" counsel to investigate the Suffolk Ethics Commission. The Commission has already expressed its indignation regarding the need for an investigation. However, the appointment of Mr. Borovina would simply add insult to injury. It is difficult to imagine any attorney who could be less "independent" in his investigation than Mr. Borovina. In fact, Mr. Borovina has already evinced his opinion that the Commission has acted improperly in several public statements, thereby belying any appearance of impartiality or independence. Furthermore, Mr. Borovina serves as counsel on matters that are currently pending before the Commission and, as such, his appointment would create not only a conflict of interest between his clients, but would undermine the integrity of the proceedings currently before the Commission.

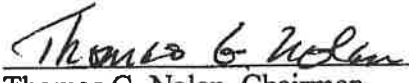
There is absolutely no question that Mr. Borovina's clients would have adverse interests were he retained to investigate the Commission. The Commission is constrained by confidentiality from revealing Mr. Borovina's clients, but, suffice to say, these individuals are being investigated by the Commission for potentially serious violations of the County's ethics code. It would certainly behoove these clients were Mr. Borovina to "discover" that the Ethics Commission acted outside the constraints of law on any matter. This raises the question as to whose interests Mr. Borovina would have at heart – the County's in performing an "independent" investigation or those of his private clients who have matters pending before the very Commission he is investigating. This is the epitome of a case of adverse interests and would be a violation of the attorney's code of professional

responsibility. Moreover, we would note that Mr. Borovina has been quoted in *Newsday* as stating "[t]he only question is: Is there a conflict between my clients, and there isn't." ["New choice offered to probe Suffolk ethics panel" William Murphy, August 9, 2010]. The Commission submits that this is not a determination that Mr. Borovina can make; rather, under the standards of professional legal ethics, Mr. Borovina's clients – both his private clients and the County itself – must waive any such conflict.

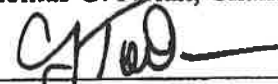
Finally, we remain at a loss as to why this body feels such a pressing need to conduct an investigation into the Commission, which has faithfully been carrying out its duties as set forth in both County and State law. The mere fact that certain members of the Legislature disagree with the Commission's opinion regarding one narrow issue relative to the filing of the County Executive's financial disclosure forms should not result in a full-blown investigation of the Commission's actions. In so doing, the Legislature creates an appearance that whenever a duly appointed Ethics Commission renders an unpopular opinion, political retribution, in the guise of "independent investigation," will be forthcoming.

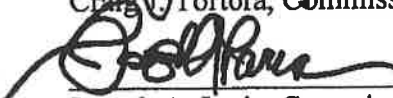
Thank you.

Very truly yours,


Thomas G. Nolan, Chairman

*by Rafael M. Liana Director of Ethics
with permission*


Craig V. Tortora, Commissioner


Joseph A. Laria, Commissioner

- Cc:
- Hon. Jon Cooper
 - Hon. Kate M. Browning
 - Hon. Lynne C. Nowick
 - Hon. John M. Kennedy, Jr.
 - Hon. Edward P. Romaine
 - Hon. Jay H. Schneiderman
 - Hon. Tom Muratore
 - Hon. Vivian Vilorio-Fisher
 - Hon. Daniel P. Losquadro
 - Hon. Jack Eddington
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 - Hon. DuWayne Gregory
 - Hon. Lou D'Amaro
 - Hon. Steve Stern
 - Hon. Steve Levy
 - Christine Malafi