

Statement of Executive Appointees, Members of the New York State Commission on Legislative, Judicial and Executive Compensation

For the record, November 15, 2016.

The New York State Commission on Legislative, Judicial and Executive Compensation was, today, to offer its final report on Legislative and Executive salaries. From the beginning of this stage of our work last January, there appeared to be a general consensus among all the members regarding the need for a substantial increase in executive compensation for agency heads. We discussed at length a number of approaches and no doubt would have reached a final agreement. Further regarding the Executive, what remained to be had was discussion, deliberation and a decision regarding any compensation increase for the State Comptroller and Attorney General. However, as regards the Legislature, there has never been, nor is there today, a consensus on the issue of a legislative salary increase.

Between January and September, the Commission held public hearings in New York City and Albany at which it heard testimony from members of the public, good government groups, the Chairman of the commission that investigated and recommended a salary increase for the NYC Council, Frederick A.O. Schwarz, Jr., and two members of the state legislature. We also received a considerable amount of written testimony and many emails and letters. At the direction of the members, Commission staff reached out to and gathered relevant information from academia. Finally, the Commission reviewed relevant materials including national and regional inflation rates, legislative compensation data from other states, and recent compensation history for our own state government.

Unfortunately, however, no institutional representative of either the Assembly or Senate testified before the Commission despite our making every effort to accommodate such testimony. We believe, and have stated repeatedly and publicly, that any consideration of a legislative compensation increase must be informed both by such institutional legislative testimony and the opportunity for Commission members to question the legislature's representatives. Our legislature-appointed Commission colleagues and, more recently, legislative leaders opposed such participation. They argued that the Commission was created, "to remove this discussion from politics" and that consideration "be based on objective economic factors." We believe this notion to

be deeply flawed. The legislature's position is to deny the very essence of representative democracy. While the actual decisions rest with the independent Commission, those seeking increases have an obligation to make their case – to the Commission but, more importantly, the public they were elected to serve. The judiciary understood this, as did the executive.

As to the “objective economic factors” that we are charged to consider, New York State legislative salaries are already the third highest in the United States, exceeded only by those of California and Pennsylvania. Our state per diems are the highest in the nation. And the additional allowances received by virtually the entire State Senate and two thirds of the State Assembly increase many salaries beyond those of California and Pennsylvania. Outside income can and has given rise to real and perceived conflicts of interest. The Commission heard testimony from members of the public and the sentiment was virtually unanimous against any raises for the legislators. The legislators' position is that the opinion of the public is irrelevant and they dismiss it as “political influence.” We believe the opinion of the public is entirely relevant, if not determinative, because the public is, in the truest definition of the word, the employer. Obviously, the employer's view on the employee's performance and merit is incredibly important.

But the public is not the only voice to which the Commission should listen, nor has it been. For one thing, their opposition is largely institutional in nature rather than a reflection of how they feel about their respective legislators, most of whom are dedicated, hard working public servants. And it is unfortunate that the good legislators who work full time, ably and honestly represent their constituents, and most assuredly deserve a raise, will suffer because there is a refusal to right systemic wrongs.

The Commission purposely waited to begin its deliberations until after the 2016 legislative session in hopes that the legislature would finally address these issues. Even the NYC Council, which recently enacted a pay increase to \$148,000, recognized the need for a cap on outside income, as does the United States Congress. Banning outside income is overwhelmingly supported by the public and good government groups as a way to ensure that elected officials are working solely for their constituents without any competing interests. The State Assembly has supported limiting outside income, whereas the State Senate has opposed the same. The Assembly, however, missed this opportunity to forcibly argue their position to the public, and has never pressed the Senate to reform outside income. A state legislature with real limits on outside income

would have made a much stronger case for meriting a raise.

That said, we believe there is still the possibility of achieving both meaningful reform and recommending a legislative salary increase – but not as a result of any action taken by this Commission today. Rather, we, the appointees of the Executive, will refrain from voting on any recommendations that may be put forth by our colleagues so that no recommendations and/or report can be issued at this time. And we hope our fellow Commissioners will follow suit. This will give the Assembly and Senate the opportunity to meet before the year's end and pass the reforms demanded by their constituents.

We recognize that going 17 years without an increase legitimately puts a financial strain on the majority of legislators who rely solely on their government salary. As such, subject to further discussions and deliberations, the executive's appointees could consider a modest increase. However, anything more than that would need to address the public's concern and opposition by making the position effectively full time and limiting outside income. Accordingly, should the legislature pass reforms that mirror those of the United States Congress, including a cap on outside income, we are prepared to recommend and approve at a reconvened meeting of the Commission, a salary substantially higher than any discussed so far by this Commission, taking in consideration Congressional and New York City Council salaries. And at that same meeting, we would finish our work by recommending formally an increase for the Executive along the lines we have already discussed, or another alternative including tying it to performance. There is precedence for such action. Governor George Pataki was correct in 1999 to include legislative performance measures and that principle should be extended and strengthened.

We believe the American public made its lack of faith in government institutions clear in last week's election. Here in New York State, we believe that we have an opportunity to restore that faith.

We stand ready to reconvene with the Commission prior to year's end if the committee as a whole signals its desire to continue the conversation and progress is made.