

DISPOSITION REPORT

STATE OF NEW YORK
LEGISLATIVE ETHICS COMMISSION

SUBSTANTIAL BASIS INVESTIGATION REPORT
JCOPE-127

IN THE MATTER OF AN INVESTIGATION
OF ASSEMBLY MEMBER VITO LOPEZ

DISPOSITION AND NOTICE
OF CIVIL ASSESSMENT

Pursuant to Executive Law §94(14-a), the Legislative Ethics Commission (LEC) received a Substantial Basis Investigation Report from the Joint Commission on Public Ethics (JCOPE) on February 20, 2013. The report determines that there is a substantial basis to conclude that former Assemblymember Lopez violated Public Officers Law §§74(3)(d),(f), and (h) through knowing and intentional conduct.

The LEC also received from Daniel M. Donovan Jr., District Attorney for Richmond County and Special Prosecutor for the Vito Lopez criminal investigation, a request dated February 14, 2013 that the LEC, not make public the JCOPE report and that it suspend its actions pursuant to Legislative Law §80(9)(b) because of an ongoing criminal investigation. The LEC complied with this request, pursuant to the statute, and released the report on May 15, 2013 when the District Attorney Donovan's Office informed the LEC that it had concluded its investigation.

On May 21, 2013, the LEC served Vito Lopez, via certified mail return receipt requested, with a notice of adjudicatory hearing for the purpose of assessing penalties, scheduled on June 4, 2013 at 10:30 a.m. Mr. Lopez' attorney was also notified via electronic mail of such hearing. The LEC, pursuant to the request of counsel for Mr. Lopez also additional materials received from JCOPE relevant to findings against Mr. Lopez.

On June 4, 2013 at 10:30a.m., the LEC convened a hearing for the purpose of assessing civil penalties. Neither Mr. Lopez, nor his counsel was present for the hearing, thereby not availing himself of his opportunity to be heard.

Pursuant to Legislative Law Section 80(10), the LEC concurs with JCOPE's conclusions of law that there is a substantial basis to find that former Assemblymember Vito Lopez violated Public Officers Law §74(3)(d), (f), and (h) through knowing and intentional conduct. Based upon a review of the report and supplemental materials provided by JCOPE, the LEC concurs that by making numerous inappropriate actions and offensive comments of a sexual nature with certain legislative staff members under his supervision and professional employment; subjecting certain female legislative staff members under his supervision and professional employment to

unwanted physical contact; and by using or attempting to use his official position to secure unwarranted privileges, including but not limited to offering raises, promotions and bonuses as incentives and threats of adverse employment action to comply with inappropriate requests made by Lopez; and by misappropriating legislative time and resources with respect to the foregoing inappropriate conduct, including but not limited to requiring a Legislative employee to travel with him to Atlantic City when there was no legitimate governmental purpose, that there is a substantial basis to conclude that Vito Lopez violated Public Officers Law §§ 74(3)(d), (f), and (h).

After reviewing the JCOPE report and other relevant materials forwarded to the LEC in consideration of the penalties to be assessed, the LEC concludes that Lopez engaged in a course of conduct that violated Public Officers Law §§ 74(3)(d)(f) and (h). The Commission finds at least thirty three distinct violations of Public Officers Law § 74(3)(d) against at least the four complainants. In addition, Lopez' knowing and intentional conduct constituted violations of Public Officers Law §§ 74(3)(f), and (h).

The Commission accordingly directs that Lopez be assessed a civil penalty in the amount of three hundred thirty thousand dollars. (\$330,000.00) The Commission's unanimous recommendation that the Assembly expel Lopez due to his egregious conduct is moot given his resignation on May 20, 2013.

Date: June 11, 2013

Senator Andrew J. Lanza, co-chair
Assemblymember Charles D. Lavine, co-chair
Senator Neil D. Breslin
Assemblymember Tony Jordan
Peter V. Coffey, Esq.
Ellen B. Holtzman, Esq.
Hon. Renee R. Roth