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NEW YORK STATE
JOINT COMMISSION ON PUBLIC ETHICS

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EXECUTIVE DIRECTOR

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August 30, 2012

Assemblyman Vito J. Lopez



RE: JCOPE - 127

Dear Assemblyman Lopez:

The New York State Joint Commission on Public Ethics ("Commission") has received allegations against you of potential violations of the Public Officers Law.

Executive Law §94(13)(a) requires that the Commission notify you of these allegations and provide you with a fifteen-day period in which to submit a written response setting forth information relating to the activities cited as possible violations of law. This letter does not serve to commence a full investigation. The statute provides that the Commission must vote before a full investigation can be commenced to determine whether a substantial basis exists to conclude that a violation of law has occurred. You have until September 17, 2012 to submit a written response to these allegations.

Specifically, that between on or about approximately March 2011 through on or about July 2012, it is alleged that you have:

- engaged in an unethical course of conduct as a member of the Assembly through inappropriate actions and offensive comments of a sexual nature with certain female legislative staff members under your supervision and professional employment;

- engaged in an unethical course of conduct in violation of the public's trust as a member of the Assembly by subjecting certain female legislative staff members under your supervision and professional employment to unwanted physical contact;
- used or attempted to use your official position to secure unwarranted privileges, included but not limited to offering raises, promotions and bonuses as incentives and threats of adverse employment action to comply with inappropriate requests made by you; and
- misappropriated legislative time and resources with respect to the above conduct, included but not limited to requiring a Legislative employee to travel with you to Atlantic City when there was no legitimate governmental purpose;

Depending on the circumstances, your actions may constitute violations of Public Officers Law §74(3)(d),(f) and (h).

Public Officers Law §74(3) sets forth specific standards to avoid conflicts of interest. Public Officers Law §74(3)(d) provides in pertinent part:

No officer or employee of a state agency, member of the legislature or legislative employee should use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others, including but not limited to, the misappropriation to himself, herself or to others, of the property, services or other resources of the state for private business or other non-compensated non-governmental purposes.

Public Officers Law §74(3)(f) provides in pertinent part:

An officer or employee of a state agency, member of the legislature or legislative employee should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.

Public Officers Law §74(3)(h) states in pertinent part:

An officer or employee of a state agency, member of the legislature or legislative employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

Please be further advised that any individual determined to have knowingly and intentionally violated the provisions of Public Officers Law §74(3)(d) may be subject to a civil penalty in an amount not to exceed \$10,000.00 and the value of any gift, compensation or benefit received as result.

Please be further advised that any individual determined to have knowingly and intentionally violated the provisions of Public Officers Law §74(3)(f) or (h) may not be subject to a civil penalty, but may be subject to a fine, suspension or removal from office or employment in the manner provided by law.

PLEASE BE ADVISED that this letter shall also serve to provide notice of your obligation to preserve any and all materials related to the above-mentioned allegations, including but not limited to documents, notes, drafts, and/or communications, in any medium, electronic or otherwise. This shall include any and relevant materials maintained by you personally and in your role as Assemblyman and shall include materials maintained by any political or campaign related operation under your control. Additionally, all employees, including assembly and campaign staff, are directed to suspend any and all document destruction and/or deletion policy and/or any other automatic computerized response system. Please ensure that all employees are aware of and comply with this request to preserve records. You are directed to take such necessary steps to do so, as the information sought may constitute evidence in a proceeding authorized by the New York State Joint Commission on Public Ethics.

The statute and pertinent regulations, including rules regarding the conduct of adjudicatory proceedings, appeals and due process procedural mechanisms available to you are on the Commission's web site at <http://www.jcope.ny.gov/law/regulations.html>. Specifically, 19 NYCRR Part 941 sets forth the adjudicatory proceedings and appeals procedure.

If you have any questions about this matter, please contact the Commission at (518) 408-3976.

Sincerely,



Ellen N. Biben
Executive Director