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### JCOPE RESOLUTION 22-02

By virtue of the authority vested in the Joint Commission on Public Ethics (the "Commission") under New York Executive Law §94 (16 and 17), the Commission resolves as follows:

**WHEREAS**, by JCOPE Resolution 21-03 dated November 16, 2021 ("Resolution 21-03"), the Commission revoked the Conditional Approval Letter;<sup>1</sup> and

**WHEREAS**, no request has been made to the Commission to change or retract Resolution 21-03;

**WHEREAS**, since the Approval Request Letter, Governor Cuomo has made no further request for approval of outside activity with regard to the Book;

**WHEREAS**, as a consequence of the revocation of the Conditional Approval Letter, Governor Cuomo lacked legal authority to engage in outside activity and receive compensation with regard to the Book while employed by the State of New York; and

**WHEREAS**, Governor Cuomo received and retained compensation from the publisher of the Book; and

**WHEREAS**, in the absence of JCOPE's approval of his outside activity in connection with the Book, Governor Cuomo is not legally entitled to retain compensation paid to him, in any form, for his outside activities related to the Book; and

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<sup>1</sup> Defined terms herein have the meaning ascribed to them in Resolution 21-03 and Resolution 21-04, as defined herein.

**WHEREAS**, by JCOPE Resolution 21-04 dated December 14, 2021 (“Resolution 21-04”), the Commission (i) ordered Governor Cuomo to pay the Book Proceeds to the Attorney General (the “Disgorgement Order”); (ii) referred the enforcement of the Disgorgement Order to the Attorney General should Governor Cuomo fail to comply with such order; and (iii) referred to the Attorney General the task of distributing the Book Proceeds to the appropriate party or parties; and

**WHEREAS**, in violation of the Disgorgement Order, Governor Cuomo has failed and refused to pay the Book Proceeds to the Attorney General; and

**WHEREAS**, as counsel for the State of New York, the Attorney General is vested with the legal authority to take the actions specified in Resolution 21-04; and

**WHEREAS**, despite Governor Cuomo’s failure to comply with the Disgorgement Order, the Attorney General has declined to enforce the Disgorgement Order on grounds that the Commission believes to be invalid as a matter of law; and

**WHEREAS**, specifically, and without limitation, the Attorney General has asserted that she is without legal authority to collect, receive or distribute the Book Proceeds as required by Resolution 21-04; and

**WHEREAS**, the Commission is mandated by law to ensure that Governor Cuomo does not retain the benefit of outside activities in which he engaged in violation of law; and

**WHEREAS**, the Commission desires to compel Governor Cuomo to disgorge the Book Proceeds through means that do not require the assistance of the Attorney General, but without prejudice to the legal effect of Resolution 21-04 and the Attorney General’s right to act pursuant thereto;

**NOW THEREFORE**, it is

**RESOLVED**, that it is hereby ordered that, by no later than 30 days from the date of this Resolution, Governor Cuomo pay an amount equal to the Book Proceeds to the party or parties that paid the Book Proceeds to Governor Cuomo (“Disgorgement Order No. 2”); and it is

**FURTHER RESOLVED**, that it is hereby ordered that, by no later than 30 days from the date of this Resolution, Governor Cuomo certify to the Commission, under penalty of perjury, that he has in all respects complied with Disgorgement Order No. 2; and it is

**FURTHER RESOLVED**, that, in the event that Governor Cuomo fails to make timely payment as ordered above, and the Attorney General has not acted to enforce

Disgorgement Order No. 1, the Commission shall proceed with all actions necessary to seek authority and funding necessary to engage outside counsel to enforce Disgorgement Order No. 2 by way of a plenary action or proceeding seeking, among any other appropriate relief, a mandatory injunction compelling Governor Cuomo to comply with Disgorgement Order No. 2; and it is

**FURTHER RESOLVED**, that it is hereby ordered that Governor Cuomo reject any payment or attempted payment to him or his designee(s) of Book Proceeds made after the date hereof, and immediately return any such payment to the party or parties from which such payment was received; and it is

**FURTHER RESOLVED**, that this Resolution 22-02 is adopted without prejudice to the Commission's authority to conduct further proceedings, issue other orders, or impose penalties with regard to Governor Cuomo's unauthorized outside activities related to the Book.

Approved: Jose L. Nieves  
Chair

Richard F. Braun  
Terryl L. Brown  
Colleen C. DiPirro  
Sharon Stern Gerstman  
C. Randall Hinrichs  
Marvin E. Jacob  
Gary J. Lavine  
David J. McNamara  
George H. Weissman  
James A. Yates

Dissent: William P. Fisher

Dated: March 18, 2022