

COMMONWEALTH OF KENTUCKY  
COUNTY OF FRANKLIN CIRCUIT COURT  
DIVISION I  
CASE NO. 17-CI-1348

JEFFREY C. MAYBERRY, *et al.*

PLAINTIFFS

**The Tier 3 Plaintiffs' Memorandum in Support of Motion  
for Entry of an Order Requiring That Documents  
Regarding the Calcaterra Pollack "Investigation"  
Be Preserved and That the Calcaterra  
Report Be Provided to the Tier 3  
Plaintiffs' Counsel**

vs.

KKR & CO., L.P., *et al.*

DEFENDANTS

*ELECTRONICALLY FILED*

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## I. INTRODUCTION AND OVERVIEW

The Tier 3 Plaintiffs (“Tier 3s”) seek an order directing KRS,<sup>1</sup> its Trustees and Officers, and the Office of the Attorney General (“OAG”), and their respective employees, agents and attorneys, including the law firms of Calcaterra Pollack LLP (“CALCATERRA FIRM”) and Stoll Keenon Ogden PLLC (“STOLL KEENON”), to preserve all documents<sup>2</sup> — including drafts and communications — relating to the “Investigation” contracted by and between the Commonwealth of Kentucky and KRS on the one side, and the CALCATERRA FIRM on the other. The Tier 3s also seek an order ensuring that they receive copies of any reports of the Investigation provided by the KRS and/or the CALCATERRA FIRM to the OAG at the same time when such reports are provided to the OAG.

We do not intend to presage or predict the results of the Investigation — which has morphed from an open-ended investigation of potential wrongdoing in connection with KRS’s investment activities, to one focused specifically on the Tier 3s’ proposed complaint in intervention.<sup>3</sup> Nor do we speculate what may happen after the final report is delivered to KRS. But the past is often prologue, and here, that is troubling. There are sound and sufficient reasons to order preservation.

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<sup>1</sup> References to “KRS” mean and include, as context requires, Kentucky Retirement Systems, Kentucky Public Pensions Authority (KPPA), CERS, KERS and SPRS.

<sup>2</sup> The term “documents” has the same broad meaning as in CR 34.01, and specifically includes, without limitation, emails and other electronically stored information (ESI). The Court should further order the suspension of any auto-delete policy in connection with involved email systems.

<sup>3</sup> See KRS’s April 19, 2021 Memorandum in Support of Emergency Motion for Extension of Time at 1 (“In November of 2020, KPPA entered into a services contract with [the CALCATERRA FIRM] to conduct an independent third-party investigation into the allegations made in the [Tier 3s’] proposed intervening complaint and to produce a report detailing the results.”).

The CALCATERRA FIRM is led, generally and in the specific context of the KRS Investigation, by Regina M. Calcaterra. Her most recent high-profile investigation — New York’s 2013 Moreland Commission, of which Ms. Calcaterra was Executive Director (*i.e.*, not as a lawyer/investigator/evaluator) — was terminated prematurely and, as reported by POLITICO, “attracted heavy criticism” amid charges of political influence and cronyism.<sup>4</sup> What started as a supposedly “independent investigation” of corruption in New York state government ended with federal prosecutors carting off the Commission’s files and opening an investigation ***of how the investigation was conducted under Ms. Calcaterra’s leadership*** — and, not coincidentally, document-preservation issues that resulted in a document-preservation directive from Preet S. Bharara, then-U.S. Attorney for the Southern District of New York.<sup>5</sup>

THE NEW YORK TIMES (“NYT”) published a lengthy feature after its own three-month examination,<sup>6</sup> which concluded, among other things, that Ms. Calcaterra had placed her thumb on the scales in service of the governor who had appointed her to the Executive Director position (and others, before and after). Ms. Calcaterra worked to ensure that neither the investigation nor its preliminary report (no final report was ever

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<sup>4</sup> Jimmy Vielkind, *Moreland Emails Saved from Cuomo Purge Policy*, POLITICO, Mar. 16, 2015 (attached as Exhibit 1).

<sup>5</sup> Susanne Craig *et al.*, *Cuomo’s Office Hobbled Ethics Inquiries by Moreland Commission*, THE NEW YORK TIMES, July 23, 2014 (cited as the “NYT Article” and attached as Exhibit 2) (“Even as Mr. Bharara spoke, he said, his investigators were on their way to box up and cart off the commission’s files. Soon after, he directed Mr. Cuomo’s office to preserve records related to its own involvement with the panel.”).

<sup>6</sup> According to the NYT Article, investigative journalists “examin[ed] ... hundreds of emails, subpoenas and internal documents and interview[ed] ... more than three dozen commission members, employees, legislative staff members and other officials. Few of those interviewed agreed to be quoted by name for fear of antagonizing the governor or his aides.” *See* Ex. 2 (NYT Article) at 2.

issued) contained negative information about or created trouble for Governor Andrew M. Cuomo or his allies:

Ultimately, Mr. Cuomo abruptly disbanded the commission halfway through what he had indicated would be an 18-month life. And now, as the Democratic governor seeks a second term in November, federal prosecutors are investigating the roles of Mr. Cuomo and his aides in the panel's shutdown and are pursuing its unfinished business.

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[T]he panel's brief existence — and the writing and editing of its sole creation, a report of its preliminary findings — was marred by infighting, arguments and accusations. Things got so bad that investigators believed a Cuomo appointee [Calcaterra] was monitoring their communications without their knowledge. Resignations further crippled the commission.

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... [T]he Times found that the governor's office interfered with the commission when it was looking into groups that were politically close to him. In fact, the commission never tried to investigate his administration.

Beyond that, Mr. Cuomo's office said, the commission needed the governor's guiding hand because it was, simply, a mess: Its staff was plagued by "relationship issues" and was "mired in discord."

At the center of the battle between independent-minded commissioners and Mr. Cuomo and his aides were two hard-charging lawyers: E. Danya Perry, a former federal prosecutor who was the panel's chief of investigations; and Regina M. Calcaterra, a former securities lawyer who, as the commission's executive director, routinely conveyed the wishes of the governor's office.<sup>7</sup>

According to the NYT, Ms. Calcaterra blocked subpoenas aimed at the governor's political allies and so closely monitored the activities of the legal staff and professional investigators (allegedly as the governor's spy) that they kept important documents on their laptops rather than on a shared drive "so that Ms. Calcaterra would not be able to

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<sup>7</sup> Ex. 2 (NYT Article) at 2–3.

gain access to them.”<sup>8</sup> Because of these and other Calcaterra-related issues, “[a] sense of paranoia spread through the office, where, one staff member said, the mood began to resemble that of a prison camp.”<sup>9</sup>

Other media outlets and public-corruption watchdog groups also published investigative stories critical of the Moreland Commission and, in particular, Calcaterra, largely focused on charges that ***improper influence deprived the Commission of real independence and resulted in a whitewash***. One such story, subtitled “*Regina Calcaterra’s Dubious Past in Politics Made Her a Questionable Choice to Lead Cuomo’s Doomed Ethics Commission*,”<sup>10</sup> reported that “in her role serving on that first Moreland Commission, Calcaterra showed that she could do what it would take to ensure a good outcome for the governor’s office” and that (according to sources connected to the erstwhile ethics commission) “her primary motivation was to protect the governor and to display her loyalty to the executive branch.” As a result, the story concluded, “a commission investigating public integrity ... failed to identify any specific examples of public corruption”<sup>11</sup> and noted that:

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<sup>8</sup> *Id.* at 7.

<sup>9</sup> *Id.*

<sup>10</sup> Catrinel Bartolomeu from THE ACCOUNTABILITY PROJECT, *Round and Round the Revolving Door, Regina Calcaterra’s Dubious Past in Politics Made Her a Questionable Choice to Lead Cuomo’s Doomed Ethics Commission*, CITY & STATE, July 17, 2015 (cited as “Round and Round’ Article”). A copy of this article, printed from the ACCOUNTABILITY PROJECT’s website is attached as Exhibit 3.

<sup>11</sup> Not long after the Commission was disbanded without completing its mission or writing a final report, the Southern District of New York — using the Commission’s files — indicted the Democratic leader of the State Assembly for public corruption, and U.S. Attorney Bharara commented that the charges against him went “to the very core of what ails Albany: lack of transparency, lack of accountability and lack of principle — joined with an overabundance of greed, cronyism and self-dealing.” See Press Release, *New York State Assembly Speaker Sheldon Silver Arrested on Corruption Charges*, U.S. Dep’t of

***Calcaterra’s main qualification for leading an ethics investigation — installed by Cuomo but nevertheless meant to act entirely independent of him — was that she had proved to be Cuomo’s loyal subject while leading a previous investigation, taking orders from the governor’s office and providing information to it.***<sup>12</sup>

Calcaterra’s questionable past conduct was not isolated to the Moreland Commission investigation. Calcaterra has been repeatedly sued by the New York Board of Elections for violations of campaign-finance laws, *i.e.*, failing to file required financial disclosures. She was disqualified from running for public office for not being truthful regarding her residency. And she has long been associated with dubious pension fund “pay-to-play” activities and key players — ***some of whom faced criminal investigations and convictions***. She even admitted cheating on an exam to get a job she wanted.<sup>13</sup>

Ms. Calcaterra’s path is riddled with allegations of misconduct that are highly relevant here, when viewed in light of the sensitive task KPPA/KRS awarded her — an independent investigation requiring public confidence and trust, contracted for by the Commonwealth. What due diligence was done by KPPA/KRS to assure her competence and integrity to undertake this important investigation? Why was this new, small New York firm selected for this sensitive task in Kentucky?

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Justice (Jan. 22, 2015) (attached as Exhibit 4). Just the things Ms. Calcaterra’s Commission was charged with investigating but failed to bring to light.

<sup>12</sup> Ex. 3 (“Round and Round” Article) at 1.

<sup>13</sup> See Post Staff Report, *I Was Homeless — Now I’m Fabulous*, NEW YORK POST, at 2, August 6, 2013 (cited as “Fabulous’ Article” and attached as Exhibit 5) (“It also helped to lie. I started making up stories[.]”).

The public-relations spin around this “Investigation,” on behalf of KRS (or, as the contract says, the Commonwealth and KRS), is that it is an “independent investigation” being conducted by an “independent third-party law firm” with no agenda or pre-conceived result. We shall see. But the fact that KRS Executive Director David Eager — who is deeply and personally implicated in the KKR/Prisma 2015–2016 self-dealing and related wrongdoing — is actively involved creates doubt. The fact that the biggest political contributor to the Attorney General’s primary political patron (\$33 million-plus just last year) is a legacy defendant in this action creates more doubt — at least a serious appearance of conflicting interests.<sup>14</sup> The case itself centers around pay-for-play and cronyism going back a number of years. The retention of the CALCATERRA FIRM just adds another layer of doubt about, among other things, independence and undue influence.<sup>15</sup>

***Why these lawyers were hired under these circumstances to do this job — which should involve in no small measure a serious effort to instill public confidence in whatever decision KRS makes — presents difficult questions.***

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<sup>14</sup> The choice of a New York firm seems strange to do an independent investigation of investment wrongdoings here in Kentucky, especially where the top deep pocket litigation targets are powerful **New York** hedge fund sellers and their principals, *e.g.*, Blackstone, Schwarzman, KKR, Kravis. Their New York influence and power among the NY elite is legendary. Schwarzman and Blackstone were contributors to an organization in which Calcaterra served on its Board of Directors, the Children’s Council. Newsletter, *Children First*, NEW YORK SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN, Winter 2015 (attached as Exhibit 6). In the “Fabulous” Article, Ms. Calcaterra stresses her fundraising powers as part of her success, telling how she helped raised more money for an event than her organization ever raised in its history. Ex. 5 (“Fabulous” Article) at 5. According to the article, “[s]he’s surrounded by New York’s powerful elite.” *Id.* at 1.

<sup>15</sup> We have learned that Ms. Calcaterra enjoys a long-time relationship with a member of KRS legal staff. The facts concerning the many serious criticisms leveled as to her performance and loyalties in connection with the Moreland Commission investigation cannot be a surprise to KRS, at least at the senior staff level.

Again, we do not intend to prejudge, whatever our suspicions might be. And we acknowledge that suspicions alone provide no basis to reject the CALCATERRA FIRM's anticipated Report in advance. But facts, as reported by close to a dozen leading news outlets, do provide a clearly sufficient basis to order that all drafts, communications and other documents concerning the Investigation and the anticipated Report — including how the contract was bid out and awarded, how the Investigation was conducted, in what manner the Report was prepared and presented (as preliminary draft or otherwise), as well as any sources of input and (if applicable) debate and “massaging” — be preserved so that a full and fair accounting of the facts may be developed in any subsequent proceeding about the Investigation or Report.

## II. ARGUMENT

### A. The CALCATERRA FIRM's Description of Its Experience, Capabilities, and the “Unique” Qualifications of Ms. Calcaterra

Before thoroughly reviewing the media reports concerning Ms. Calcaterra's past conduct, it is important to look at how she *herself* described ***her background and achievements and that of her new firm*** — descriptions used by her to secure the Kentucky contract and ***no doubt considered by the Commonwealth and KRS before hiring her, as such materials were required to be submitted with the contract bid***. The CALCATERRA FIRM resume presented this picture of her new firm:

... Our firm leverages over five decades of collective experience representing pension funds, institutional investors, governmental agencies ....



Ex. 7 at 1.<sup>16</sup> As to Ms. Calcaterra personally, she described herself on her LinkedIn profile as having been:

**Executive Director NYS Commission  
to Investigate Public Corruption**

Managed the development of a highly scrutinized report focused on addressing systemic public corruption that was supported ***by detailed investigatory findings of the Commission. Recommendations were accepted and integrated into statute .... Managed staff, human resources, documents management and public hearings.***

Ex. 8 at 2.<sup>17</sup> According to the CALCATERRA FIRM's web page under the heading "Practice Areas" – "***Investigations***":

When a crisis occurs, in the public or private sector, there is often a need for an independent investigation .... ***Calcaterra Pollack LLP's investigation team includes former gubernatorially appointed attorneys and an assistant district attorney, one of which served as Executive Director of two statewide investigatory commissions with subpoena power.*** Both statewide investigative commissions ... required the issuing of subpoenas, document review, witness inquiries, and public hearings. ***Also required and produced were substantive reports on the findings and related solutions, most of which were implemented into new statutory and regulatory schemes.***

Ex. 9 at 1.<sup>18</sup> The CALCATERRA FIRM's web page described Calcaterra's unique experience:

**About Regina** – Regina also brings a wealth of experience to the Firm from a series of senior executive positions she held

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<sup>16</sup> A printout of the "Our Firm" tab on the Calcaterra Firm's website (<https://calcaterrapollack.com/our-firm/>) is attached as Exhibit 7.

<sup>17</sup> A printout of Ms. Calcaterra's profile on LinkedIn (<https://www.linkedin.com/in/regina-calcaterra>) is attached as Exhibit 8.

<sup>18</sup> A printout of the "Investigations" tab under the "Practice Areas" tab on the Calcaterra Firm's website (<https://calcaterrapollack.com/practice-areas/investigations/>) is attached as Exhibit 9.

in public service, including “Executive Director to two of New York State Governor Andrew Cuomo’s statewide investigatory commissions.”

Ex. 10 at 4.<sup>19</sup>

The CALCATERRA FIRM was formed in New York on April 1, 2020. Ex. 11 at 1.<sup>20</sup> Neither it nor its principals has ever done an investigation into pension-fund investment activities, or any “internal” corporate investigation. It bid on an August 24, 2020 Solicitation from the Commonwealth of Kentucky to do an investigation into past KPPA/KRS investment activities to determine “if there are any improper or illegal activities on the part of the parties involved,” and produce a detailed report. Ex. 12 at 1.<sup>21</sup>

## **B. Reports of the Investigatory Press Regarding Ms. Calcaterra’s Past Conduct**

### **1. The New York Investigatory Commissions**

As summarized above, the investigatory press paints a very different picture regarding Ms. Calcaterra’s conduct and claimed achievements in the two New York investigations where she acted as “Executive Director.” The evidence set forth in this Memorandum comes from national publications *where articles with such allegations are subjected to vetting by fact-checkers and lawyers*. We *quote extensively* from the articles so that no one will accuse us of making the “incendiary” assertions contained therein. *The articles speak for themselves*.

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<sup>19</sup> A printout of the “Regina Calcaterra” tab under the “Our Team” tab on the CALCATERRA FIRM’s website (<https://calcaterrapollack.com/our-team/regina-calcaterra/>) is attached as Exhibit 10.

<sup>20</sup> A printout from the “Entity Information” regarding the CALCATERRA FIRM on the New York State Department of State’s website is attached as Exhibit 11.

<sup>21</sup> A copy of the Solicitation issued on September 4, 2020 by the Commonwealth of Kentucky, entitled “Legal Investigative Services for Kentucky Retirement System,” is attached as Exhibit 12.

The first Commission Calcaterra referenced in her self-described “wealth of experience” (see Ex. 10 at 4) involved investigating the Long Island Power Authority’s botched response to Superstorm Sandy.

According to a New York Times investigation .... The conclusion appeared “dictated and predetermined because it didn’t match the findings in the report,” according to Matthew Cordero, a member of the LIPA board of trustees who also claimed that the ***executive branch, through Calcaterra, manipulated the public hearings to their benefit.***

Ex. 3 (“Round and Round” Article) at 5.

The second investigation (see Ex. 8 at 2) — into political corruption in New York — resulted in far more serious charges of misconduct when it collapsed and was disbanded, resulting in a major scandal. The “political corruption” investigation Calcaterra ran day-to-day was the subject of a major NYT July 23, 2014 exposé, “*Cuomo’s Office Hobbled Ethics Inquiries by Moreland Commission.*” See Ex. 2 (NYT Article) at 1. The NYT laid out what happened with Calcaterra as Executive Director of (and ***not a lawyer or investigator for***) this ***independent*** Commission, which was to investigate, issue first a preliminary report and later on a follow-up final report on political corruption in New York.

According to this NYT exposé (see generally Ex. 2 (NYT Article)), Ms. Calcaterra, as Executive Director of the Moreland Commission:

- interfered with and obstructed the investigation to protect a subject of the investigation;
- improperly communicated and cooperated with that subject while the investigation was going on;
- blocked subpoenas that subject objected to;
- edited draft reports to eliminate material that subject objected to;

- vetoed an independent author for the “preliminary” report, arranging for an employee of that subject of the investigation to draft it; and
- altered the issued report by deleting the language objected to by the subject, after the “preliminary” inadvertently contained such language.

Ms. Calcaterra’s conduct took place over repeated protests by the Commission’s professionals, investigators and lawyers, and members of the Commission itself — some of whom ultimately quit in protest. The corruption investigation collapsed. It was terminated a year early. The Commission never issued a final report. According to the NYT:

With Albany rocked by a seemingly endless barrage of scandals and arrests, Gov. Andrew M. Cuomo set up a high-powered commission... to root out corruption in state politics. It was barely two months old when its investigators, hunting for violations of campaign-finance laws, issued a subpoena to a media-buying firm that had placed millions of dollars’ worth of advertisements for the New York State Democratic Party.

The investigators did not realize that the firm, Buying Time, also counted Mr. Cuomo among its clients, having bought the airtime for his campaign when he ran for governor in 2010.

Word that the subpoena had been served quickly reached Mr. Cuomo’s most senior aide, Lawrence S. Schwartz. He called one of the commission’s three co-chairs, William J. Fitzpatrick ....

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The subpoena was swiftly withdrawn. The panel’s chief investigator explained why in an email to the two other co-chairs later that afternoon. “They apparently produced ads for the governor,” she wrote.

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***[A] three-month examination by The New York Times found that the governor’s office deeply compromised the panel’s work, objecting whenever the commission focused on groups with ties to Mr.***

***Cuomo or on issues that might reflect poorly on him.***<sup>22</sup>

Ultimately, Mr. Cuomo abruptly ***disbanded the commission*** halfway through what he had indicated would be an 18-month life.

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As a result, the panel's brief existence — and the writing and editing of its sole creation, a report of its preliminary findings — was marred by infighting, arguments and accusations. Things got so bad that investigators believed a Cuomo appointee [Executive Director Calcaterra] was monitoring their communications without their knowledge...

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Mr. Cuomo said early on that the commission would be “totally independent” and free to pursue wrongdoing anywhere in state government, including in his own office .... In fact, the commission never tried to investigate his administration.

At the center of the battle between independent-minded commissioners and Mr. Cuomo and his aides were two hard-charging lawyers: E. Danya Perry, a former federal prosecutor who was the panel's chief of investigations; and Regina M. Calcaterra, a former securities lawyer who, as the commission's executive director, routinely conveyed the wishes of the governor's office.

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... [A]s investigators asked questions, they found themselves inquiring about matters related to the governor's supporters. And this led to confrontations between Ms. Perry, the commission's chief investigator, and Ms. Calcaterra, its executive director.

... Ms. Perry was a senior prosecutor .... Ms. Calcaterra, by contrast, had spent years in and out of government and Democratic politics and ran for State Senate herself in 2010, before being disqualified because of a residency requirement.

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One of the first roadblocks Ms. Perry and her investigators encountered came when they sought to subpoena the Real Estate Board of New York, a powerful trade group whose

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<sup>22</sup> The examination “included a review of hundreds of emails, subpoenas and internal documents and interviews with more than three dozen commission members, employees, legislative staff members and other officials.” Ex. 2 (NYT Article) at 2.

members have been among Mr. Cuomo's most generous supporters.

Ms. Calcaterra repeatedly pressed Ms. Perry not to serve the subpoena, emails show. Yet the commission backed Ms. Perry, and on Aug. 19, she wrote to the co-chairs that she would be sharing a subpoena with them "shortly."<sup>23</sup>

Whereupon Mr. Cuomo's office stepped in to shut it down. Mr. Schwartz, the secretary to the governor, telephoned one of the commission's three leaders in a fury .... There would be no subpoena to the real estate board, he said.

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Around the same time, commission investigators also decided to subpoena a major retailer to see if its donations were linked to passage of a tax credit.

This, too, was met with resistance from Ms. Calcaterra.

The rationale? The tax credit had been included in Mr. Cuomo's budget, she told Ms. Perry, so any questions raised about it could reflect poorly on him ....

On Aug. 28, Ms. Perry forwarded an email chain about the resistance to Ms. Rice, the panel's co-chairwoman, who sent it along to the other two. "Danya can't be prevented from doing the most basic and noncontroversial aspects of her job," Ms. Rice wrote.

Ms. Fitzpatrick was exasperated. "... ***[T]his is an INDEPENDENT commission and needs to be treated as such,***" he wrote.

## Uprising

Investigators began to suspect that Ms. Calcaterra was monitoring their activities and reporting back to the governor's office.

At times, commissioners and staff members said, she appeared to be updating Mr. Schwartz, practically in real time, with rapid-fire messages from her BlackBerry.

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<sup>23</sup> Among Calcaterra's lobbying clients included huge New York ***real estate developers*** who were members of the Real Estate Board. See Ex. 3 ("Round and Round" Article) at 2. That Board made large contributions to Cuomo. Her interference with this part of the investigation protected not only Cuomo, but also her real estate clients.

A sense of paranoia spread through the office, where, one staff member said, the mood began to resemble that of a prison camp. Ms. Perry told investigators to assume that Ms. Calcaterra was indeed reading their emails.

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Investigators began keeping files on their laptops rather than on a shared drive... so that Ms. Calcaterra would not be able to gain access to them... at least four commissioners – district attorneys ... began discussing quitting the panel to protest the interference from Mr. Cuomo’s office, commissioners said. Ms. Rice proposed asking the Governor’s office to replace Ms. Calcaterra. Ms. Perry ...argued that Ms. Calcaterra had clearly been tipping off the governor’s office.

The three co-chairs ..., told Ms. Perry not to inform Ms. Calcaterra about subpoenas until just before they were served. Hearing this, Ms. Calcaterra accused the three of treating her like a “glorified secretary...”

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Mr. Fitzpatrick raised the subjects of Ms. ***Calcaterra’s attempts to influence the commission’s investigations***, and of Mr. Schwartz’s own meddling ....

***The interference has got to stop***, Mr. Fitzpatrick said ... commissioners were threatening to quit .... Mr. Schwartz dismissed any talk of replacing Ms. Calcaterra. ...

... [T]he subpoena to the media-buying firm with ties to Mr. Cuomo, Buying Time, was approved — setting off alarm bells in the governor’s office .... Mr. Cuomo was by far Buying Time’s biggest client in New York, spending some \$20 million on ads since his ill-fated bid for governor in 2002.

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The subpoena went out [and] Schwartz, the governor’s secretary, quickly found out ....

... Ms. Perry emailed investigators with “URGENT” in the subject line. Ms. Calcaterra, she wrote, was asking “which subpoenas have been served” and directing that no others go out “until further notice.”

Ms. Perry then alerted the co-chairs. “I am trying to remain calm,” she wrote.

... Ms. Perry got a note from a lawyer for Buying Time ... to confirm that the subpoena had been withdrawn.

“Why did this one get clawed back?” Mr. Williams, a co-chairman, asked Ms. Perry in an email.

“They apparently have produced ads for the governor,” she wrote back. Ms. Perry pleaded for backup.

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“Someone needs to tell Regina that she does not have this authority,” she wrote to the co-chairs, referring to Ms. Calcaterra. “It is simply not her job to be reviewing subpoenas in the first instance, and certainly not her job to be continually calling off process servers, against your instructions.”

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In his charge to the Moreland Commission, Mr. Cuomo had directed that it produce a ***preliminary report*** by early December ....

The drafting of the document, however, engendered some of the most contentious debates ... over who should write it.

In the end, the author was handpicked by the governor’s office.

The resistance was particularly overwhelming when the commission tried to include information that the governor’s aides said could reflect poorly on Mr. Cuomo.

Ms. Perry was adamant that the preliminary report cover what investigators had learned about the powerful Real Estate Board of New York and its political donations.

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Ms. Perry also wanted the report to highlight her team’s discovery of email correspondence from a major New York City builder, Extell Development, about a coming fund-raiser for Mr. Cuomo tied to his birthday.

“As you know,” Ms. Perry wrote, “I strongly believe we should include whichever docs we think will add the most value in the report and include them without fear or favor, as they say.”

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Ms. Perry made sure that the Cuomo-friendly group was mentioned in drafts of the report. In the final product, however, ***it was gone — deleted by Ms. Calcaterra***, according to a marked-up page obtained by The Times.

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On the morning of Dec. 2, the day the [preliminary] report was to be released, the dissenters pressed to have the report state



that only a “majority” of commissioners recommended public financing of campaigns....[copies] of the latest draft of the report... were sent to the news media — with the word “majority” [included].

Mr. Williams raced upstairs in the commission’s offices to confront Ms. Calcaterra.

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**“You better fix it now,”** he snapped, according to a person who was there.

Ms. Calcaterra assured him she would.

... [T]hat evening, commission staff members ... heard Mr. Williams yelling into his cellphone at Ms. Calcaterra. **He was still demanding that the word “majority” be deleted.** “I am not backing down,” he shouted. “You cannot operate like this.”

Sometime that night, the report was quietly rereleased, with the offending language excised.

Ex. 2 (NYT Article) at 1–3, 5–7, 9, 12–16. The NYT reported that the Commission collapsed and was disbanded — its recommendations cast aside:

The demise of the ... Commission was nothing like its birth. To announce its creation, Mr. Cuomo held a news conference at the Capitol ....

His comments on the shutdown lasted 63 seconds.

... Mr. Cuomo announced a budget deal with lawmakers that included some modest improvements in state ethics laws — strengthening bribery and corruption statutes and enhancing election-law enforcement.

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**The governor said he had achieved his goal of a deal on legislation, so the panel would be shut down.**

*Id.* at 16–17.

These were no “substantive reports ... and related solutions ... implemented into new statutory and regulatory schemes” (Ex. 9 at 1). The claims made by Calcaterra about the success of the New York Commissions under her stewardship as Executive Director in

her resume and on her firm's web site (see Ex. 10 at 4 (her "wealth of experience [in] senior executive positions she held in public service")) are at odds with what actually happened, according to this and other reports.

As reported in THE ATLANTIC on July 23, 2014:<sup>24</sup>

New York Gov. Andrew Cuomo's office repeatedly interfered with the work of a commission investigating corruption in New York politics whenever the investigation got too close to groups connected to the governor ....

[The] ***Commission repeatedly pulled back subpoenas to companies that bought air time for the governor or donated to his campaigns, at the behest of ... the commission's executive director Regina M. Calcaterra*** — who worked closely with the governor's secretary .... ***The governor abruptly disbanded the 18-month investigation in March, 10 months early.***

Further, according to the NEW YORK DAILY NEWS:

Some members of Gov. Cuomo's short-lived anti-corruption commission are angry and bitter.

The Daily News spoke to close to 10 sources tied to the soon-to-be-defunct panel, and a number of them denounced what they said was interference from Cuomo's office.

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***"It was pretty widely understood that anything Regina Calcaterra knew, it would immediately be on the desks of" top Cuomo aides*** Larry Schwartz and Mylan Denerstein.

Ex. 14 at 2, 5.<sup>25</sup> The coverage continued in the ROCKLAND COUNTY TIMES:<sup>26</sup>

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<sup>24</sup> Arit John, *Governor Cuomo May Have Corrupted His Own Anti-Corruption Commission*, THE ATLANTIC, July 23, 2014 (attached as Exhibit 13).

<sup>25</sup> Kenneth Lovett, *Members of Gov. Cuomo's Anti-Corruption Commission Detail Frustrating Environment Curbed by Administration*, NEW YORK DAILY NEWS, Apr. 12, 2014 (attached as Exhibit 14).

<sup>26</sup> Michael Riconda, *CUOMO DEMONS EXPOSED: Moreland Commission "Hobbled" by Governor's Interference*, ROCKLAND COUNTY TIMES, July 24, 2014 (attached as Exhibit 15).

... [M]any began to suspect Calcaterra was monitoring the Commission's activities and reporting them back to Secretary to the Governor Larry Schwartz. Eventually, the co-chairs of the Commission informed Chief Investigator E. Danya Perry to only notify Calcaterra of subpoenas just as they were about to be served ....

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The final straw came soon after the submission of the Commission's preliminary report in December 2013. ***Though Perry wished to include a number of improprieties and recommendations for reform, most of these items were cut out of the final report. Rice and Perry resigned early in 2014 ....***

Further, CITY & STATE reported:<sup>27</sup>

The Moreland Commission co-chairs' first choice to write the much-anticipated report ... [was] Adam Skaggs, then a senior counsel to the nonpartisan Brennan Center for Justice and an expert on several areas central to the Commission's work .... Skaggs ... was approved unanimously – and was offered the position. However, the ***Commission's executive director, Regina Calcaterra, nixed the choice, making it clear that the governor's office did not approve of Skaggs' selection.***

... [T]he Commission continued its search for an independent report writer.

... ***Ultimately, the co-chairs decided on Alex Camarda***, the director of public policy and advocacy for the good government group Citizens Union. Camarda had been highly recommended for the position by Moreland commissioner Richard Briffault, a professor at Columbia Law School who is one of the nation's foremost authorities on government ethics. ***However, before Camarda was notified that he had been hired, Calcaterra threatened to resign as executive director if the Commission hired Camarda.***

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***According to the dozen Commission sources interviewed for this article,*** ... Calcaterra was open with the Commission's staff and commissioners that she was closely coordinating with the governor's office, and that in

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<sup>27</sup> Morgan Pehme, *et al.*, *Co-Chairs' Picks to Write Moreland Report Were Nixed for Second Floor Insider*, CITY & STATE, Apr. 14, 2014 (attached as Exhibit 16).

many instances ***her demands were extensions of orders handed down by the Second Floor***, in particular from the Secretary to the Governor, Larry Schwartz.

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Sources say that after Calcaterra threatened to resign over Camarda's hiring, ***the governor's office made it clear to the co-chairs that Calcaterra would be staying on, and that the executive chamber would not agree to the hiring of an independent, good government report writer.***

***The governor's office sent Alex Crohn. No independent writer was ever hired.***

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Commission sources say that by Crohn's own admission, he was an unusual fit for the job, lacking, as he was, in professional expertise in ethics reform, campaign finance, the penal code or any of the other areas principally germane to the Commission's work.

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"It's crazy," said the source. "It's nothing short of crazy. It's just completely counterintuitive...."

Several Commission sources say that the first draft submitted by Crohn was riddled with grammatical mistakes and factual errors.

Appalled at the low quality of the work... the co-chairs decided to silo off the executive summary of the report to Danya Perry, the chief of investigations for the Commission, ... Perry was selected because of her thorough knowledge of the status of the Commission's investigations and because the co-chairs trusted her. Some other sections of the report were handed off to Commission members who were experts in the respective areas covered.

After Perry completed the executive summary in November, ***the co-chairs refused to show it to Calcaterra, convinced that Calcaterra would instantly share it with the Second Floor ....***

***Eventually the co-chairs were so suspicious that Calcaterra would try to make last-second unapproved alterations to the language in the report that from the late morning when the commissioners' meeting was adjourned until the report was finalized that evening — a period in***

***excess of six hours — the co-chairs literally stood over Crohn as he put the finishing touches on the report to personally assure themselves of the integrity of the document.***

When the corruption investigation collapsed and the Commission was abruptly disbanded, Calcaterra returned to a job with her previous employer — ***the subject of the investigation she had allegedly protected.*** According to the NEW YORK POST:<sup>28</sup>

Regina Calcaterra was the executive director of the Moreland Commission, and is accused of having kept Gov. Cuomo updated on its activities.

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***Thanks for the info. Now here's a sweet job.***

The ***executive director of Gov. Cuomo's anti-corruption commission — accused of reporting its every move to Cuomo aides — is in line for a soft landing*** at the State Insurance Fund, sources said.

Though Cuomo disbanded the Moreland Commission panel in April, Executive Director Regina Calcaterra continues to receive her \$175,000 a year salary.

The source said her move to the low-profile insurance agency, which sells disability and worker compensation policies, wouldn't come as a surprise to anyone familiar with government.

***“Anything in parole or insurance is a reward,” the source said.***

A federal criminal investigation, where Calcaterra was a “subject,” ensued.

According to NEWSWEEK:<sup>29</sup>

A three-month investigation by *The New York Times* published today reveals a pattern of interference by the

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<sup>28</sup> Pat Bailey, *Head of Scandal-Plagued Moreland Commission in Line for Cushy Job*, NEW YORK POST, July 30, 2014 (attached as Exhibit 17).

<sup>29</sup> Taylor Wofford, *Cuomo Under Investigation by Feds for Shuttering Corruption Commission*, NEWSWEEK, July 23, 2014 (attached as Exhibit 18).

governor's office "when it was looking into groups that were politically close to him."

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When the commission attempted to subpoena the Real Estate Board of New York, "whose members have been among Mr. Cuomo's most generous supporters," ***Regina Calcaterra, the commission's executive director, scrubbed the investigation, the Times investigation revealed.***

Federal prosecutors subpoenaed Calcaterra's assistant, Heather Green...

Calcaterra refused to answer questions. Instead, she retained "a renowned criminal trial lawyer," Marc Mukasey to speak for her.<sup>30</sup>

## **2. Pension Plan "Pay-to-Play" Activities and Other Misconduct**

Calcaterra's conduct revealed in the NYT investigations is part of a pattern of questionable conduct. The ACCOUNTABILITY PROJECT Article ("Round and Round" Article) is a broader review of Calcaterra's record, which places the NYT investigation scandals in context:

A key figure involved in the disbanded Albany ethics commission [***Calcaterra***] was sued by the state Board of Elections 17 times, and had once been found ineligible to run for an office she had campaigned for. She had ***learned the art of politics and governance from a state official***

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<sup>30</sup> See Jon Campbell, *Cuomo Criticized over Moreland Commission Report*, DEMOCRAT & CHRONICLE, July 24, 2014 (attached as Exhibit 19).

The federal criminal investigation was later closed for lack of sufficient evidence of a ***federal*** crime to issue indictments at the time:

"After a thorough investigation of interference with the operation of the Moreland Commission and its premature closing, this Office has concluded that, absent any additional proof that may develop, there is insufficient evidence to prove a federal crime. We continue to have active investigations related to substantive inquiries that were being conducted by the Moreland Commission at the time of its closure."

Press Release, *Statement of U.S. Attorney Preet Bharara Relating to Moreland Commission Investigation*, U.S. Dep't of Justice (January 11, 2016) (attached as Exhibit 20).

***convicted of fraud, and had used connections made while under his employ to earn money as a lobbyist and attorney, gaining the prestige to do so as an employee of the state*** — a perfect illustration of the revolving door in New York politics. She even admitted in writing that she cheated on a test to get her first job.

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But Gov. Andrew Cuomo did not choose to make this woman an example of the kind of person his Moreland Commission to Investigate Public Corruption should examine. ***Instead, Cuomo appointed Regina Calcaterra his ethics commission's executive director.***

Indeed, ***Calcaterra's main qualification for leading an ethics investigation — installed by Cuomo but nevertheless meant to act entirely independent of him — was that she had proved to be Cuomo's loyal subject while leading a previous investigation, taking orders from the governor's office and providing information to it.***

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Calcaterra puts her own drive to win on display in “Etched in Sand,” recounting the difficulty she had getting a job immediately out of college in 1988, when a good job required a typing test, which Calcaterra repeatedly failed, having never learned how. She figured out a way to pass though: “I’m allowed to practice on the same script and the same typewriter I’ll be using for the test,” she writes. “I take my time to type the script with no mistakes ... then I place it under my typewriter ... It’s perfect.”<sup>31</sup>

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Through her Women PAC Calcaterra ***managed to regularly run afoul of campaign finance regulations. She was sued 17 times by the city's Board of Elections for failing to file required financial disclosures.***

Ex. 3 (“Round and Round” Article) at 1–2, 4.

THE ACCOUNTABILITY PROJECT also discussed Calcaterra’s association with illegal conduct inside public pension funds, *i.e.*, “pay-to-play” — the very misconduct (*a.k.a.* the

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<sup>31</sup> According to the “Fabulous” Article chronicling Calcaterra’s rise to success, she once said: “It also helped to lie. I started making up stories[.]” Ex. 5 (“Fabulous” Article) at 2.

“placement agents scandal”) that plunged KRS into a scandal some years ago and is detailed in the Tier 3 Complaint (¶¶ 38–39, 249–251):

***Calcaterra cut her teeth in politics and government under Alan Hevesi, who would later become city and state comptroller and was barred permanently from public office in 2007 after pleading guilty to defrauding the government and served 20 months in prison after admitting in 2010 that he’d abused his stewardship of the \$125 billion New York state pension fund (having approved a \$250 million pension fund investment in exchange for \$1 million in gifts to himself and his family).***

... She was a lobbyist when she met Hevesi, and would eventually be hired as the comptroller’s legislative director in 1994, even though she had yet to finish law school.

In 2000, Calcaterra formed a lobbying firm, then went back into government just two years later at the largest pension fund controlled by the city Comptroller’s Office, the New York City Employee Retirement System. She jumped from there to a \$175,000 a year gig at Barrack, Rodos & Bacine, a law firm that donated over \$90,000 to Hevesi’s campaign for state comptroller in 2002, was hired that year by the state’s comptroller’s Office to lead litigation on a \$6 billion lawsuit, and was retained by Hevesi after he took office in 2003. By 2010, Calcaterra took the revolving door for one more spin as she ran for office in the state Senate, piling up large donations from her previous state contractors employees, before eventually being ***removed from the ballot when she was found in violation of the state’s residency requirement.***

As with so much in her memoir, “Etched in Sand.” Calcaterra’s portrayal of her time with Hevesi is at least selective and perhaps misleading. While some of her work for Hevesi is chronicled in the memoir, she omits his ethical problems and never mentions his convictions ....

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## **INSIDE & OUTSIDE**

Calcaterra’s gig at NYCERS was short-lived, and she was soon back in the private sector, this time working for a big payday from a government contract.



Back when terrestrial phone lines were still the biggest phone business around, WorldCom, the nation's second-largest distance company was committing securities fraud. In June 2002, the firm announced it had overstated its previous year's earnings by more than \$3.8 billion. As it happened, the New York state pension fund was then the largest shareholder in WorldCom, so the fund launched a lawsuit against the phone service. The Comptroller's Office hired an out-of-state law firm, Barrack, Rodos & Bacine, to make their case in July 2002, while Carl McCall was still the state's comptroller and Hevesi was running for the job. ***BR&B and its partners and PACs donated more than \$90,000 to Hevesi's 2002 campaign*** and maintained their position as lead counsel once Hevesi took office.

There was one major change at ***BR&B*** around the time Hevesi was elected in 2002, though: They ***hired Calcaterra, even though she had never worked as a litigator***. She became the point person for handling BR&B's relationship with the state Comptroller's Office and would speak with Hevesi and those in his office "several times a day," she testified ...

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## ON HER OWN

But Calcaterra would only be able to use her relationship with Hevesi as long as he was in power. When he was barred from elected office in 2007 and imprisoned in 2011, Calcaterra had to find a new power structure to be part of.

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She wasn't eligible to run for the office, as she hadn't been a New York state resident for the prior five years.... Calcaterra insisted she was eligible to run despite a lawsuit objecting to her candidacy. ***Calcaterra had lived in Pennsylvania for several years while working for BR&B. She'd gotten a Pennsylvania driver's license, had a bank account there, voted four times there, filed taxes as a Pennsylvania resident***, participated in the local Democratic club and worked as a ballot official. She even filed for divorce in Pennsylvania in 2006 .... ***Despite all of that, she claimed in court she'd really been a New York resident for much of that time. The court eventually found that Calcaterra "ha[d] not met the constitutional requirements of a five year continuous residency," and removed her from the ballot.***

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## A GOOD SOLDIER

Keeping the governor's office in the loop would have undermined the basic goals of the commission: to investigate corruption in Albany, wherever it might be found.

Nevertheless, *Calcaterra* was not just ***accused by her colleagues*** in The New York Times of ***reporting back to the governor*** and his aide, Larry Schwartz, but ***also of rooting through garbage cans, hacking emails and thwarting independent investigations in an attempt to put the kibosh on subpoenas that may have besmirched Cuomo and his allies.***

Sources within the Moreland Commission told the Accountability Project that *Calcaterra* was ***“shockingly underqualified” and that she “botched” her operational responsibilities*** like public hearings, contracts and document management. Instead, they said ***her primary motivation was to protect the governor and to display her loyalty to the executive branch.***

Andrew Cuomo's Moreland Commission was certainly no conclave. ***But the person he chose to lead it was about as suitable as a Borgia pope.***

Ex. 3 (“Round and Round” Article) at 1–2, 4–6.

### C. The Award of the Kentucky Contract to the CALCATERRA FIRM, as Well as Its Implementation, Raise Questions

The circumstances surrounding the award and implementation of the Contract to the CALCATERRA FIRM for the “independent third-party” investigation raise questions.<sup>32</sup> Neither Calcaterra nor her firm, nor any of its principals has ever performed an investigation into pension fund investment activities, nor an “internal” corporate investigation — a ***major “scoring” criterion*** for the contract award, as outlined below. There is also the information regarding her prior record, as detailed above, which has

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<sup>32</sup> A copy of the Contract dated November 23, 2020 between the Commonwealth of Kentucky and Kentucky Retirement Systems and the CALCATERRA FIRM is attached as Exhibit 21.

been publicly available for years, and was certainly available to the Commonwealth and KRS when they hired the CALCATERRA FIRM as “capable” of performing an “independent investigation” paid for with a not-insubstantial amount of “public” funds.

### **1. The Terms of the Solicitation and Resulting Contract**

The Solicitation and the Contract contain the following provisions:

- The Contract was not effective until approved by the Secretary of the Finance and filed with the Legislative Research Commission’s Contract Review Committee;
- The Contract is with the Commonwealth not just KPPA/KRS;
- The Solicitation required a “qualified” law firm be hired;
- Prior experience with public pension plans and prior “significant investigation” experience were the two most important factors to be “scored” to “evaluate” any proposed law firm;
- A current resumé and extensive disclosures of both types of past activities were required – including a “detailed narrative” of past experience and any “grievances” in connection therewith;
- Non-lawyer Cassandra Weiss at KRS was mandated to be the “sole point” of contact during the procurement process. Any law firm bidding on the work “shall not communicate with any other Commonwealth staff concerning [the] RFP”;
- Bidders were forbidden to disclose any portion of the proposed work prior to the contract award; and
- No modification or change of any provision of the contract could be made unless agreed to in writing by the Commonwealth. “Clarification” or “correspondence” cannot be construed as an amendment to the contract.

See Ex. 12 at 1–3; Ex. 21 at 6.

### **2. The Award of the Contract to Investigate Past Investment Activities for “Improper or Illegal” Conduct of the “Parties Involved”**

The Commonwealth’s “Solicitation” for the KPPA/KRS contract was issued August 24, 2020 with a “close” date of September 14, 2020 — *just a three-week period to*

**submit a bid for a massive investigation.** The CALCATERRA FIRM Contract was agreed to by KPPA/KRS on November 23, 2020. Because the Contract is also with the Commonwealth — not just KPPA/KRS — it required approval by the Finance Secretary, not just the KPPA/KRS Board. The Contract was not effective until its approval by the Secretary of Finance in December 2020.

The **only KPPA/KRS contact person**, identified as the “**sole point of contact**” in the Solicitation, is Cassandra Weiss, a procurement person — not a lawyer. See Ex. 12 at 2. Disclosure of any Kentucky contract/proposal **or** any contact with any other KPPA/KRS staff person **was forbidden during the procurement process.**

In September 2020, while the KPPA/KRS investigation solicitation process was **still open** — and no contract had yet been awarded, in a separate bid submission for work with Nassau County, New York,<sup>33</sup> Ms. Calcaterra was asked to:

“Provide names and addresses for no fewer than three references for whom the Proposer **has provided similar services** or who are **qualified to evaluate the Proposer’s capability to perform this work.**”

Ms. Calcaterra’s answer included:

Kentucky Retirement System  
Vicky Hale, Counsel  
1260 Louisville Rd.  
Frankfort, KY US  
(502) 696-8800  
Victoria.hale@kyret.gov

**This raises questions.** In September 2020, the CALCATERRA FIRM had not yet been awarded the KRS Contract; the KRS Solicitation process had not closed until

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<sup>33</sup> A copy of the Business History Form signed and submitted by Ms. Calcaterra on September 16, 2020 in connection with a bid entered by the Nassau Integrated Financial System on September 8, 2020 is attached as Exhibit 22.

September 14, 2020. How did Calcaterra know the CALCATERRA FIRM was going to get the KRS contract? Why was Vicky Hale, a **staff attorney**, listed as a “**reference**” who was “**qualified**” to evaluate Calcaterra, when Hale is not identified in the KRS Solicitation papers and Weiss was designated the sole contact person?

On March 8, 2021, LAWDRAGON published an interview with Calcaterra:<sup>34</sup>

**Lawdragon:** Regina, tell us about the firm you recently started. What practices are you focusing on? What work has come in so far?

**Regina Calcaterra:** *Based upon my prior government investigation experience, we were recently retained to conduct a complex investigation that taps into the firm’s various practice areas.*

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*My government executive roles include serving as executive director of two of New York Governor Andrew Cuomo’s statewide investigations ....*

On the day this article was published on LinkedIn, a social-networking site, KRS staff attorney Hale “**liked**” the article, which included references to both the CALCATERRA FIRM Contract with the Commonwealth/KPPA/KRS (but not identified as such) and the two NY investigations that provided Calcaterra with — her “wealth of experience” with investigations — her “**unique**” qualifications for the Kentucky Contract.

More questions arise from the Calcaterra Firm’s registration with the Kentucky Secretary of State as a “foreign limited partnership” to conduct business in Kentucky on August 20, 2020<sup>35</sup> — ***four days before the Solicitation for the Contract was***

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<sup>34</sup> Alison Preece, *Lawyer Limelight: Regina Calcaterra*, LAWDRAGON, Mar. 8, 2021 (attached as Exhibit 23).

<sup>35</sup> A copy of the entity information regarding the CALCATERRA FIRM from the Kentucky Secretary of State’s website is attached as Exhibit 24.

**issued.** In fact, Ms. Calcaterra started the registration process even earlier — on August 12, 2020.<sup>36</sup> The timing of the CALCATERRA FIRM’s registration is curious because proof of registration to do business in Kentucky is a condition of bidding for the Contract, which had not yet been put out for bid.

Did the CALCATERRA FIRM have an “inside track”? Was the CALCATERRA FIRM given preference? Were there other bidders?

**3. The Narrowing of the Investigation to Target the Allegations in the Tier 3 Plaintiffs’ Proposed Complaint in Intervention**

There are other questions. The CALCATERRA FIRM Contract did not call for the CALCATERRA FIRM to investigate the Tier 3s’ claims asserted in the proposed Complaint in Intervention or the separate free-standing complaint they filed at the same time. Neither of those complaints existed when the Kentucky Contract was bid on or awarded. The Contract actually called for Ms. Calcaterra to

... investigate specific investment activities conducted by the Kentucky Retirement Systems to *determine if there are any improper or illegal activities on the part of the parties involved and produce a detailed report documenting their investigation and findings.*

See Ex. 21 at 2. In a March 2, 2021 filing with this Court, KPPA/KRS stated:

“Before the Tier 3 Individuals sought intervention here, Kentucky Retirement ***hired an independent third-party law firm to investigate the allegations contained in the proposed intervening complaint. Kentucky Retirement is investigating the allegations and will rely on the results of that investigation in choosing a path forward.***”

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<sup>36</sup> A copy of a “Registration or Renewal of Entity Name” form signed by Ms. Calcaterra (downloaded from the Kentucky Secretary of State’s website) is attached as Exhibit 25.

KRS's March 2, 2021 Response to the Tier 3 Individuals Motion to Intervene at 1. How could the Commonwealth have hired the CALCATERRA FIRM to investigate the Tier 3s' allegations back in September–December 2020 when their “proposed intervening complaint” had not yet been filed (the Tier 3s moved to intervene on February 1, 2021)?

The Contract with the CALCATERRA FIRM called for a broad investigation into prior investment conduct. It made no reference to the Tier 3s' Complaint in Intervention. The Contract forbid any change to its terms without a signed amendment, approved by the State. Why was the scope of the Contract for a broad investigation contracted for by the Commonwealth narrowed to target the Tier 3 Complaint? On what authority? By whom?

Who was in a position to do this?

- David Eager, the current CEO who was involved in awarding the contract and overseeing the so-called “independent” investigation. He has been a vocal critic of the litigation on behalf of KPPA/KRS, which includes allegations of serious wrongdoing by him in collusion with Peden, Prisma, Cook, and KKR/Prisma with regard to alleged self-dealing in 2015–16, which is critical to the liability of KKR and Prisma. ¶¶130, 301–311.
- J.T Fulkerson, a current and the longest-serving KPPA/KRS Trustee who has been on the board since 2013 and a member of its key Investment and Finance Committees – the committees involved in the alleged wrongdoing. He is alleged to have participated in the 2015–16 wrongdoing – involving Eager, Peden, KKR/Prisma and Cook, which involved clear violations of KPPA/KRS's conflict of interest policies. ¶132.
- STOLL KEENON, General Counsel to KPPA/KRS for over 20 years, owed fiduciary duties to the KRS entity **and** its members when the dubious investment activities were taking place and KRS imploded due to fiduciary misconduct involving conflicted investments. STOLL KEENON has been involved with the CALCATERRA FIRM and KPPA/KRS insiders in the “independent” investigation. STOLL KEENON represents Defendant KPPA/KRS in the litigation the narrowed investigation now targets – a suit where they are defending. ***The broader investigation contracted for would have necessarily included STOLL KEENON's possible involvement and/or liability.***<sup>37</sup>

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<sup>37</sup> The Court upheld claims against KRS's fiduciary counsel Ice Miller. *Mayberry v. KKR & Co., L.P.*, No. 17-CI-1348, slip op. at 19–21 (Ky. Cir. Ct. Franklin Cnty. Nov. 30,

The “independence” of this forthcoming report thus seems questionable. And by its own admission, KRS has been reviewing ***drafts*** of the final report for several weeks — since as early as February 21, 2021. KRS has refused Open Records Act requests for copies of the report on the grounds that they are still reviewing ***drafts*** of the report.

**D. Whatever Future Use Is Made of the CALCATERRA FIRM’s Anticipated Report Will Involve Broad Discovery into How and Why the Contract Was Awarded and How the “Independent Investigation” Was Conducted — All of Which Must Be Made Public**

The facts and circumstances outlined above require Court action to help assure the preservation of all relevant evidence and a level litigation field. Is Calcaterra unqualified, incompetent, untrustworthy and corrupt as the articles suggest, or is she “fabulous” as she and her public relations operation claim, possessing the qualifications, and prior successes the CALCATERRA FIRM presented in its submission to get the Kentucky Contract?

It is imperative to preserve all documents relating to the hiring of the CALCATERRA FIRM, their investigation and their report(s), including all prior/preliminary drafts. KRS has admitted there are multiple “drafts” of this “independent” report, which have been reworked by KRS’s staff and/or Board over the past three months while Eager is CEO, Board member J.T. Fulkerson remains in place, and STOLL KEENON is involved. Given the reports that Calcaterra ***altered*** drafts of the NY corruption investigation report to remove requested negative information regarding a subject of the investigation, all drafts here must be preserved. The drafts will be crucial to trace what involvement KPPA/KRS’s officials, staff attorneys and its long-term general counsel have had into what was

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2018) (Shepherd, J.). STOLL KEENON was similarly situated. The claims of aiding/abetting, conspiracy, and common enterprise, as well as direct fiduciary-duty claims, upheld as to Ice Miller would apply to STOLL KEENON as well — and certainly from a broad investigatory standpoint.



supposed to be an “**independent third-party**” investigation of possible illegal/improper conduct in connection with KRS’s past investment activities.

If and when a “final” CALCATERRA FIRM report is issued and used by KPPA/KRS offensively in this litigation, there will be **serious scrutiny** of that report, **including an independent review of that report by the Court, a review to be informed by discovery undertaken by the Tier 3s to be used via the adversarial process to litigate whatever issues arise**. The CALCATERRA FIRM report is going to be the focus of a lot of attention. **And all filings and proceedings relating to it must be open to the public — the media, KRS members and Kentucky taxpayers, not sealed and secret as KPPA/KRS has signaled they intend**.

### III. CONCLUSION

All told, something is “rotten in Frankfort.” This Court has broad power to order preservation of evidence of all proceedings, and there is no attorney-client privilege that can be asserted regarding the CALCATERRA FIRM’s “investigation” — paid for by public funds for the benefit of KRS and its members.<sup>38</sup> The Court should order the preservation of evidence sought in this motion, and direct that KPPA/KRS turn over to the Tier 3s whatever report(s) are turned over to the OAG, at the same time.

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<sup>38</sup> This is consistent with a well-established body of law that there is no attorney client privilege available in well-pleaded derivative litigation involving fiduciaries breaches. See, e.g., *Garner v. Wolfinbarger*, 430 F.2d 1093 (5th Cir. 1970); *Wal-Mart Stores, Inc. v. Ind. Elec. Workers Pension Trust Fund*, 95 A.3d 1264, 1276–78 (Del. 2014); *Nama Holdings, LLC v. Greenberg Traurig LLP*, 133 A.D.3d 46 (N.Y. App. Div. 1st Dep’t 2015); see also *The Shareholders’ Derivative-Claim Exception to the Attorney-Client Privilege*, 48 LAW & CONTEMPORARY PROBLEMS NO. 3 at 199 (Duke Univ. 1985). The same fiduciary exception applies where, as here, beneficiaries of a trustee sue the Trustee and other fiduciaries for breach of fiduciary duties. The same rule applies in the context of trustee-beneficiary litigation. *Riggs Nat’l Bank v. Zimmer*, 355 A.2d 709 (Del. Ch. 1976); *In re Kipnis Section 3.4 Trust*, 329 P.3d 1055 (Ariz. Ct. App. Div. 1 2014); RESTATEMENT (THIRD) OF TRUST § 82 (2005).

Dated: May 3, 2021

Respectfully submitted,

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# **EXHIBIT 1**

# **EXHIBIT 1**

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Cuomo. | AP Photo/Mike Groll

## Moreland emails saved from Cuomo purge policy

By JIMMY VIELKIND | 03/16/2015 05:33 AM EDT

ALBANY—The Cuomo administration decided to preserve emails generated by the Moreland Commission to Investigate Public Corruption, breaking with a policy of automatically deleting most messages after 90 days that the Democratic governor last week pledged to review.



A spokeswoman for the state's Office of Information Technology Services confirmed to Capital last week that an exception was made for the Moreland Commission, but refused to elaborate.

The commission's nine-month tenure was attracted heavy criticism, from charges that senior aides to Governor Andrew Cuomo weighed in about pending investigations to action by legislators who sued to block subpoenas seeking details of their outside jobs.

Email deletion was another, albeit smaller, point of controversy, according to several people involved in the commission's work.

Moreland investigators began to notice in October 2013 that older messages were disappearing from their in-boxes and several of them, including Danya Perry, the chief of investigations, brought their concerns to Regina Calcaterra, the commission's executive director.

(Calcaterra was a central figure in the Moreland controversy; a Cuomo loyalist, she reportedly conveyed the governor's wishes to the ostensibly independent-acting commission and reported back to the administration on the commissioner's activities.)

The auto-deletion continued, the people said, but staffers were careful to preserve important messages either by printing them or storing them to a hard disk. The state decided to keep all commission emails, and now says they have been preserved.

On Nov. 1, one of the law firms that was subpoenaed for records about a Republican state senator it employed provided notice it was likely to sue to quash the request. It said in a letter that the Moreland Commission should preserve “any communications, including but not limited to those with any state and local governmental agencies, commissions, chamber, and public officials using public or private emails.”

Michelle McDonald, the I.T.S. spokeswoman, declined to say what prompted the state to create its own archive.

“Notwithstanding the 90-day email policy applied to individual accounts, all Moreland Commission emails were preserved on the system,” she said. “All Moreland emails were preserved and are being maintained by I.T.S.”

Perry and Calcaterra declined to comment.

The Moreland Commission was disbanded in April 2014 in conjunction with a state budget agreement that tightened the state's bribery laws, created a system of public campaign finance for that year's elections and increased campaign finance disclosure and enforcement.

Preet Bharara, the U.S. attorney for the Southern District of Manhattan, sent a letter to the commission's co-chairs on April 3 saying he was "disappointed" the commission was disbanded and asking that it preserve all the documents from its work. They were delivered on April 10, a spokesman for the prosecutor said.

Citing Bharara's ongoing review of the commission, its attorney, Mike Koenig, declined to comment.

The tale of the Moreland Commission's electronic records underscores the importance of email preservation, advocates say, and helps make the case for suspending the auto-deletion policy while a new one is formulated.

"It just shows the need for a consistent email deletion policy that allows all records to be preserved for up to seven years," said Dick Dadey, executive director of Citizens Union. "There's no reason this should be the exception."

Late Thursday, as legislators moved forward with bills and Attorney General Eric Schneiderman announced he was suspending the deletion policy in his office, a Cuomo aide said the governor would convene a transparency summit to examine changes in the email policy. At the same time, former governor David Paterson, the Cuomo-picked chair of the Democratic State Committee, called legislators hypocritical because their offices are not fully subject to the Freedom of Information Law.

Assemblyman Danny O'Donnell, a Democrat from Morningside Heights, said legislation he is sponsoring with State Senator Liz Krueger would forestall the automatic email deletion and subject the Legislature to more disclosure.

"While I have worked well with former governor Paterson in the past in our shared communities, and I appreciate his interest in transparency for our government, I think on this occasion he is working on behalf of others to deflect attention from the crucial matter at hand—an indefensible 90-day email deletion policy," O'Donnell stated. "Governor Cuomo's proposed meeting to discuss a unified government policy on email is well-intentioned, but simply insufficient. As Attorney General Schneiderman recognized when he suspended the 90-day policy for his own office, an immediate halt to the practice is

necessary. Every single day we wait, emails are being deleted automatically that may prove relevant for future investigations.”

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# **EXHIBIT 2**

# *Cuomo's Office Hobbled Ethics Inquiries by Moreland Commission*



Leaders of the Moreland Commission, front row, from left: Kathleen M. Rice, Milton L. Williams Jr. and William J. Fitzpatrick, the panel's co-chairs, and Regina M. Calcaterra, its executive director. Credit...Michael Nagle for The New York Times

# *Cuomo's Office Hobbled Ethics Inquiries by Moreland Commission*

By Susanne Craig, William K. Rashbaum and Thomas Kaplan

July 23, 2014

With Albany rocked by a seemingly endless barrage of scandals and arrests, Gov. Andrew M. Cuomo set up a high-powered commission last summer to root out corruption in state politics. It was barely two months old when its investigators, hunting for violations of campaign-finance laws, issued a subpoena to a media-buying firm that had placed millions of dollars' worth of advertisements for the New York State Democratic Party.

The investigators did not realize that the firm, Buying Time, also counted Mr. Cuomo among its clients, having bought the airtime for his campaign when he ran for governor in 2010.

Word that the subpoena had been served quickly reached Mr. Cuomo's most senior aide, Lawrence S. Schwartz. He called one of the commission's three co-chairs, William J. Fitzpatrick, the district attorney in Syracuse.

"This is wrong," Mr. Schwartz said, according to Mr. Fitzpatrick, whose account was corroborated by three other people told about the call at the time. He said the firm worked for the governor, and issued a simple directive:

"Pull it back."

The subpoena was swiftly withdrawn. The panel's chief investigator explained why in an email to the two other co-chairs later that afternoon.

"They apparently produced ads for the governor," she wrote.

The pulled-back subpoena was the most flagrant example of how the commission, established with great ceremony by Mr. Cuomo in July 2013, was hobbled almost from the outset by demands from the governor's office.

While the governor now maintains he had every right to monitor and direct the work of a commission he had created, many commissioners and investigators saw the demands as politically motivated interference that hamstrung an undertaking that the governor had publicly vowed would be independent.

The commission developed a list of promising targets, including a lawmaker suspected of using campaign funds to support a girlfriend in another state and pay tanning-salon bills. The panel also highlighted activities that it saw as politically odious but perfectly legal, like exploiting a loophole to bundle enormous campaign contributions.

But a three-month examination by The New York Times found that the governor's office deeply compromised the panel's work, objecting whenever the commission focused on groups with ties to Mr. Cuomo or on issues that might reflect poorly on him.

Ultimately, Mr. Cuomo abruptly disbanded the commission halfway through what he had indicated would be an 18-month life. And now, as the Democratic governor seeks a second term in November, federal prosecutors are investigating the roles of Mr. Cuomo and his aides in the panel's shutdown and are pursuing its unfinished business.

Before its demise, Mr. Cuomo's aides repeatedly pressured the commission, many of whose members and staff thought they had been given a once-in-a-career chance at cleaning up Albany. As a result, the panel's brief existence — and the writing and editing of its sole creation, a report of its preliminary findings — was marred by infighting, arguments and accusations. Things got so bad that investigators believed a Cuomo appointee was monitoring their communications without their knowledge. Resignations further crippled the commission. In the end, the governor got the Legislature to agree to a package of ethics reforms far less ambitious than those the commission had recommended — a result Mr. Cuomo hailed as proof of the panel's success.

While some reports of tension between the governor's office and the commission surfaced in the news media at the time, the examination by The Times provides the first full accounting of how extensively the governor's aides involved themselves in the commission's work and the level of disruption that this caused.

The examination included a review of hundreds of emails, subpoenas and internal documents and interviews with more than three dozen commission members, employees, legislative staff members and other officials. Few of those interviewed agreed to be quoted by name for fear of antagonizing the governor or his aides.

Mr. Cuomo said early on that the commission would be “totally independent” and free to pursue wrongdoing anywhere in state government, including in his own office. “Anything they want to look at, they can look at — me, the lieutenant governor, the attorney general, the comptroller, any senator, any assemblyman,” he said last August.

In a 13-page statement responding to The Times's questions, Mr. Cuomo's office defended its handling of the commission. It said the commission was created by and reported to the governor, and therefore he could not be accused of interfering with it.



While he allowed the commission the independence to investigate whatever it wanted, the governor's office said, it would have been a conflict for a panel he created to investigate his own administration.

"A commission appointed by and staffed by the executive cannot investigate the executive," the statement said. "It is a pure conflict of interest and would not pass the laugh test."

Yet, The Times found that the governor's office interfered with the commission when it was looking into groups that were politically close to him. In fact, the commission never tried to investigate his administration.

Beyond that, Mr. Cuomo's office said, the commission needed the governor's guiding hand because it was, simply, a mess: Its staff was plagued by "relationship issues" and was "mired in discord." The commissioners, whom he earlier called some of New York's sharpest governmental and legal minds, "did not understand the budget or legislative process or how state government worked," the statement said. Their subpoenas often had "no logic or basis," and those that touched on the governor's supporters were more for show than for legitimate investigative purposes, the statement said.

At the center of the battle between independent-minded commissioners and Mr. Cuomo and his aides were two hard-charging lawyers: E. Danya Perry, a former federal prosecutor who was the panel's chief of investigations; and Regina M. Calcaterra, a former securities lawyer who, as the commission's executive director, routinely conveyed the wishes of the governor's office.

Working closely with Ms. Calcaterra was Mr. Schwartz, the secretary to the governor, a job far more powerful than the title suggests.

Yet never far from the action was Mr. Cuomo himself, making the most of the levers of power at his disposal and operating behind closed doors in ways that sometimes appeared at odds with his public statements.

Over two days of meetings with the commission's co-chairs last September, Mr. Cuomo personally suggested a way to squeeze members of the Legislature into enacting ethics-reform measures: by issuing subpoenas to the law firms where many legislators earn sizable incomes for part-time work.

(Months later, however, Mr. Cuomo made it sound as if he bore no responsibility for those subpoenas: In a private meeting, according to one of the participants, he ascribed the subpoenas to "cowboys" on the commission.)

In another pressure-packed session, Mr. Schwartz specifically told the commission's co-chairs that the governor himself was off limits.

As if to demonstrate the competing views of interference, Mr. Fitzpatrick now says he agreed with the decision to pull back the subpoena to the governor's media-buying firm, though others on the commission were outraged.

Many of them, including some of New York's most senior prosecutors, had believed they would have free rein to pursue investigations wherever they led and would be independent of the executive branch. What became of the commission left many of them disillusioned.

"The thing that bothered me the most is we were created with all this fanfare and the governor was going to clean up Albany," said Barbara Bartoletti, legislative director for the League of Women Voters of New York State and a special adviser to the commission. "And it became purely a vehicle for the governor to get legislation. Another notch for his re-election campaign. That was it."

### **Creating a Commission**

New York State government had always seen its share of scandal, but it had become nearly synonymous with corruption when Mr. Cuomo was elected in 2010, promising to restore integrity to Albany. But by early last year, the parade of handcuffed officials had not subsided. In little more than a month, three state legislators were arrested on federal charges; one of them was accused of trying to bribe his way onto the New York City mayoral ballot, and another had sold legislation for cash.

On July 2, 2013, Mr. Cuomo took a seat at a long table in the stately Red Room adjoining his private office on the second floor of the Capitol building. With him were Attorney General Eric T. Schneiderman and district attorneys from across the state.

Mr. Cuomo said the rash of scandals had shaken the public's confidence, and he announced he was creating a formidable new commission, investing it with subpoena power and giving it until the end of 2014 to crack down on public corruption as never before.

It was called a Moreland Commission, after a 1907 law that governors had long used to create panels to investigate wrongdoing and recommend legislative improvements.

"The people of this state should sleep better tonight," Mr. Cuomo said.

Three people would lead the panel, formally named the Commission to Investigate Public Corruption. The governor selected two: the affable and blunt-spoken Mr. Fitzpatrick, the longtime district attorney in Onondaga County and a Republican; and Kathleen M. Rice, the Nassau County district attorney and a Democrat.

Mr. Schneiderman, a Democrat, recommended nine of the 25 members, including the third leader: Milton L. Williams Jr., a former state and federal prosecutor and partner at the Manhattan law firm of Vladeck, Waldman, Elias & Engelhard. A unanimous vote of the commission's three leaders would be required to issue a subpoena.

"I believe, with the credibility of this commission, you can go a long way towards restoring that public trust," Mr. Cuomo said.

The members included prosecutors, professors and lawyers, some with close ties to Mr. Cuomo. Yet Mr. Fitzpatrick, seated to Mr. Cuomo's left, said the commission could proceed freely, even if the governor's own fund-raising came under scrutiny.

"He's not looking for rubber stamps," Mr. Fitzpatrick said. "He's looking for an independent commission, and we'll do what Deep Throat told Bob Woodward to do: Follow the money."

Two weeks later, the newly formed commission was being advertised in a 30-second television spot paid for by Mr. Cuomo's re-election campaign.

"Trust is everything to me," the governor said, looking into the camera. He said, "So I am appointing a new independent commission, led by top law enforcement officials from all across this great state, to investigate and prosecute wrongdoing."

"The politicians in Albany won't like it," he said. "But I work for the people."

### **Resistance From Above**

Being hired by the commission, one young investigator said, "had all the makings of a dream job."

The investigators set up shop in an office building in Lower Manhattan. In their cross hairs from the outset were the pots of money that had long spawned scandals in the Legislature: campaign donations and spending; the easy-to-abuse expense reimbursements known as per diem payments; and the outside income that some lawmakers earned in lucrative part-time jobs, often at law firms representing clients with business before the state.

A consulting firm, K2 Intelligence, was hired to search databases for donations linked to the passage of legislation or to the awarding of state contracts.

But as investigators asked questions, they found themselves inquiring about matters related to the governor's supporters. And this led to confrontations between Ms. Perry, the commission's chief investigator, and Ms. Calcaterra, its executive director.

While Ms. Perry was a senior prosecutor who had handled one of the nation's largest immigration-fraud cases and a huge disability-fraud case, she was a newcomer to politics.

Ms. Calcaterra, by contrast, had spent years in and out of government and Democratic politics and ran for State Senate herself in 2010, before being disqualified because of a residency requirement. She had led Mr. Cuomo's first Moreland panel, which dug into utility companies' responses to Hurricane Sandy. (She had also written a memoir about her troubled childhood, which prompted a New York Post headline: "I Was Homeless — Now I'm Fabulous.")

One of the first roadblocks Ms. Perry and her investigators encountered came when they sought to subpoena the Real Estate Board of New York, a powerful trade group whose members have been among Mr. Cuomo's most generous supporters.

According to a subpoena that had been prepared, investigators wanted to examine the real estate board's political donations, its materials related to a valuable tax break for new housing, and its communications with public officials, including phone calls with lawmakers.

Ms. Calcaterra repeatedly pressed Ms. Perry not to serve the subpoena, emails show. Yet the commission backed Ms. Perry, and on Aug. 19, she wrote to the co-chairs that she would be sharing a subpoena with them "shortly."

Whereupon Mr. Cuomo's office stepped in to shut it down.

Mr. Schwartz, the secretary to the governor, telephoned one of the commission's three leaders in a fury, according to four people briefed on the call. There would be no subpoena to the real estate board, he said.

Ultimately, the commission merely sent the real estate board a letter asking it to provide information voluntarily, which it did.

In a statement, Mr. Schwartz, who is not a lawyer, did not address specific subpoenas but generally acknowledged giving the commission "advice on investigative or tactical decisions," but only to improve its "effectiveness and fairness." He added that he often said that investigative decisions were ultimately up to the co-chairs.

Around the same time, commission investigators also decided to subpoena a major retailer to see if its donations were linked to passage of a tax credit.

This, too, was met with resistance from Ms. Calcaterra.

The rationale? The tax credit had been included in Mr. Cuomo's budget, she told Ms. Perry, so any questions raised about it could reflect poorly on him, according to several people apprised of the exchange.

On Aug. 28, Ms. Perry forwarded an email chain about the resistance to Ms. Rice, the panel's co-chairwoman, who sent it along to the other two. "Danya can't be prevented from doing the most basic and noncontroversial aspects of her job," Ms. Rice wrote. "Thoughts??" (Ms. Rice, through a spokesman, declined to comment for this article.)

Mr. Fitzpatrick was exasperated. "The 2d Floor (Larry) needs to understand this is an INDEPENDENT commission and needs to be treated as such," he wrote, referring to Mr. Schwartz and to the location of the governor's office in the Capitol. He added that "everything we discuss does not need to be fed back to Floor 2."

"I am not wasting 15 months of my quickly shortening life to write some silly report that Lewis and Clark couldn't find in five years!" Mr. Fitzpatrick wrote.

Publicly, though, Mr. Fitzpatrick betrayed no sign of the turmoil in the commission and said a number of times that the governor's office had not interfered — and his seemingly contradictory positions became a source of growing frustration to staff and commission members.

## Uprising

Investigators began to suspect that Ms. Calcaterra was monitoring their activities and reporting back to the governor's office.

At times, commissioners and staff members said, she appeared to be updating Mr. Schwartz, practically in real time, with rapid-fire messages from her BlackBerry. The two also spoke frequently by phone.

A sense of paranoia spread through the office, where, one staff member said, the mood began to resemble that of a prison camp. Ms. Perry told investigators to assume that Ms. Calcaterra was indeed reading their emails. One investigator told colleagues he had become convinced that it was true after Ms. Calcaterra asked him about something he had mentioned only once, in a message he had emailed from his Moreland account to his personal account.

Investigators began keeping files on their laptops rather than on a shared drive, several staff members said, so that Ms. Calcaterra would not be able to gain access to them.

Independence and interference were, not surprisingly, on the agenda when the full commission met on Aug. 29 in a law firm's Midtown Manhattan office.

Ms. Perry and Ms. Calcaterra were seated near one another. The two were barely on speaking terms.

Ms. Perry was asked to give an update on investigations. Prompted by one of the co-chairs, she began to detail some of the obstacles she and her investigators faced, attendees said: The governor's office was editing letters, telling her what subpoenas she could not issue and dictating what investigative avenues she could not pursue. Her voice cracked with emotion. And Ms. Calcaterra typed away furiously on her BlackBerry.

That same day, Mr. Cuomo publicly affirmed that even his own political dealings would be fair game for the commission investigators. "They have total ability to look at whatever they want to look at," he told reporters during a stop upstate.

Yet at least four commissioners — including the district attorneys from Broome, Erie and Rockland Counties — began discussing quitting the panel to protest the interference from Mr. Cuomo's office, commissioners said.

"There were some people that expressed the view that, 'Look, it's the governor, he created us, he gets to say what he wants,' " one commissioner said. "That was not my understanding going in. And it was not what he said at the press conference, and it was not what most of us wanted to do — participating in a commission that was not independent."

Ms. Rice proposed asking the governor's office to replace Ms. Calcaterra, according to emails and interviews. Others wanted to seek control over the commission's budget and personnel, or halt communications between the governor's office and commission staff. Several wanted to ask Mr. Cuomo to put in writing any promises of such changes.

Nothing came of the talk.

Ms. Perry was somewhat successful, however, in fending off Ms. Calcaterra's efforts to be informed about all subpoenas in advance. She argued that Ms. Calcaterra had clearly been tipping off the governor's office.

The three co-chairs, emails show, told Ms. Perry not to inform Ms. Calcaterra about subpoenas until just before they were served. Hearing this, Ms. Calcaterra accused the three of treating her like a "glorified secretary," according to people involved with the commission.

A lawyer for Ms. Calcaterra, Marc L. Mukasey, declined to answer questions for this article, but said, "Regina at all times acted in good faith."

## **An Appointment With Cuomo**

Fearful that the commission was headed off the rails, Mr. Fitzpatrick asked for a meeting with Mr. Cuomo.

Around 3 p.m. on Sept. 17, Mr. Fitzpatrick and his two co-chairs arrived at the governor's office in Midtown.

Before their audience with Mr. Cuomo, they were ushered into Mr. Schwartz's office. They quickly got down to business.

Mr. Fitzpatrick raised the subjects of Ms. Calcaterra's attempts to influence the commission's investigations, and of Mr. Schwartz's own meddling, according to one participant at the meeting and others briefed on it.

"The interference has got to stop," Mr. Fitzpatrick said, according to the participant. It was causing friction, he said, and commissioners were threatening to quit.

Mr. Schwartz assured the three that he had wanted only to be helpful.

The governor's office needed to be kept in the loop, he said, so that subpoenas that were ill advised or potentially embarrassing to the governor did not get served.

The message was simple: The co-chairs might be astute in matters of law, but Mr. Schwartz, an experienced government hand, was more highly attuned to political appearances.

Mr. Schwartz said the commission was examining conduct that was "understood" in Albany but might look "funny" to outsiders, according to the participant, whose account was corroborated by others with knowledge of the discussion.

"Things can be twisted against the governor by the Legislature," the participant recalled Mr. Schwartz's saying. "You are looking at places where there may be no wrongdoing, but people will twist it to make it look like there was."

Then, the participant recalled, Mr. Schwartz drew a bright line: The Moreland Commission, he said, had been created to investigate the Legislature; it was not intended to scrutinize the governor's actions.

In fact, the executive order creating the commission had said nothing about restricting its focus to the Legislature or placing the governor's office out of reach.

Mr. Schwartz also dismissed any talk of replacing Ms. Calcaterra. "Let me be clear," he said, according to the participant. "She is not going anywhere."

Mr. Fitzpatrick and his two colleagues, escorted by Mr. Schwartz, then entered the governor's private office.

As his guests sat in red armchairs, the blue carpeting beneath their feet bearing the seal of New York State, Mr. Cuomo expressed support and sympathy for their effort and predicament.

He understood their concerns about interference, he said. He would give the commission the space it needed to do its work — and more resources, too.

“I will get what you need,” Mr. Cuomo promised, according to a person who was in the room. He then offered tactical advice about how to go after the Legislature.

Lawmakers had so far provided little information to the commission. Investigators were eager to fire off subpoenas to force the issue. But Mr. Cuomo said legislators would just sue to quash them on constitutional grounds. “It’s too risky,” he said, according to the person in the room.

That night, the commission held its first public hearing. The lead-off witness was Preet Bharara, the United States attorney for the Southern District of New York, who urged the panel to adopt a much more aggressive approach.



Preet Bharara, the United States attorney for the Southern District, at the commission’s first public hearing. He later assailed the governor’s abrupt ending of the panel. Michael Nagle for The New York Times

Mr. Bharara encouraged commissioners to make full use of their subpoena power, develop cases worth prosecuting and avoid overlooking minor offenses. He asked them to consider recommending that politicians convicted of corruption be stripped of their pensions.



And he left them with an admonition: Let no one be immune, “whether in the legislative or in the executive branch.”

“In all things,” Mr. Bharara added, “toughness and independence will pay off.”

In the morning, the three co-chairs heard from Mr. Cuomo’s office again. He wanted them to come back in.

The governor offered a new suggestion, according to a person in the room: Rather than subpoenaing lawmakers themselves, the commission should subpoena their law firms and partners.

Many legislators, including three of the most powerful — Sheldon Silver, a Democrat who is the Assembly speaker, and the Senate’s co-leaders, Dean G. Skelos, Republican of Long Island, and Jeffrey D. Klein, Democrat of the Bronx — work for law firms, some of which pay them high salaries. Demanding records from their firms would sidestep any constitutional objections.

Mr. Cuomo, appearing energized, assured the co-chairs that he had never seen lawmakers so scared, the person said.

He urged them to open their own talks with the Legislature on a package of ethics reforms.

Two of the commission’s leaders expressed skepticism. But the governor pressed. So they agreed to give it a try.

### **Subpoena Pulled Back**

A day later, however, the subpoena to the media-buying firm with ties to Mr. Cuomo, Buying Time, was approved — setting off alarm bells in the governor’s office.

Moreland investigators had been looking for violations of campaign-finance laws involving the so-called housekeeping accounts of political parties, which may be used only for routine expenses like office rent, not to promote candidates. There is no limit on donations to these accounts, and the controls on how the money is spent are notoriously loose.

Investigators noticed that the state Democratic Party’s housekeeping account had begun paying Buying Time for television advertising in 2013. The payments exceeded \$4 million, records show. Investigators wanted to know what sort of ads had been placed, and if campaign laws had been broken by the party in the process.

But unbeknown to the co-chairs and commission staff, Mr. Cuomo was by far Buying Time’s biggest client in New York, spending some \$20 million on ads since his ill-fated bid for governor in 2002.

“We really didn’t anticipate any problems,” one commissioner said.

The subpoena went out the next day, Sept. 20. Mr. Schwartz, the governor’s secretary, quickly found out and called Mr. Fitzpatrick, who agreed to order it rescinded.

At 1:53 p.m., Ms. Perry emailed investigators with “URGENT” in the subject line. Ms. Calcaterra, she wrote, was asking “which subpoenas have been served” and directing that no others go out “until further notice.”

Ms. Perry then alerted the co-chairs. “I am trying to remain calm,” she wrote.

One minute, Ms. Perry got a note from a lawyer for Buying Time, promising cooperation; four minutes later, the lawyer wrote back to confirm that the subpoena had been withdrawn.

“Why did this one get clawed back?” Mr. Williams, a co-chairman, asked Ms. Perry in an email

“They apparently have produced ads for the governor,” she wrote back. (A lawyer for Mr. Williams declined to comment, as did a lawyer for Ms. Perry, citing her status as a potential witness in the continuing federal inquiry.)

In an email responding to questions from The Times, Mr. Fitzpatrick said that Mr. Schwartz had made a compelling argument for pulling back the subpoena: Investigators were looking into the funneling of money between two other political groups, and Buying Time had nothing to do with that. Mr. Fitzpatrick said he agreed that subpoenaing Buying Time went beyond what investigators had been looking for.

“Did Larry ‘interfere’ or did he give good advice?” Mr. Fitzpatrick said. “I feel the latter.”

(Investigators, however, were interested in Buying Time because of its work for the Democratic housekeeping account, several people briefed on the matter say. Mr. Fitzpatrick said he explained his actions at the panel’s next meeting. But some commissioners said they strongly took issue with his decision.)

The following Monday, Sept. 23, Ms. Perry pleaded for backup.

“Someone needs to tell Regina that she does not have this authority,” she wrote to the co-chairs, referring to Ms. Calcaterra. “It is simply not her job to be reviewing subpoenas in the first instance, and certainly not her job to be continually calling off process servers, against your instructions.”

The commission decided to hold off on issuing new subpoenas until it was able to determine what the legislative leaders might agree to in terms of ethics reform.

The answer was not much.

On Sept. 30, the three co-chairs met with top Assembly and Senate aides in the governor's Midtown office. Mr. Schwartz sat in. Mr. Cuomo did not.

Heeding the governor's advice, the three arrived with a list of proposals, including public financing of campaigns, beefing up corruption laws, and expanding disclosure of lawmakers' outside incomes.

Their proposals bombed, according to people in the room.

"This is a witch hunt," said Robert F. Mujica, chief of staff for the Senate Republicans.

David L. Lewis, a lawyer for Senate Republicans, objected to a measure that would toughen the penalties for lawmakers convicted of corruption.

"Are you suggesting a 30-year member of the Legislature be robbed of their pension because of one indiscretion?" he asked, attendees recalled.

Mr. Fitzpatrick responded with one word: "Yes."

The commission gave up any hope of legislative cooperation. It sent subpoenas to the outside employers of a number of lawmakers, and even asked for records of the keycards the legislators used to get into their law firms' offices.

In the end, Buying Time did receive a subpoena, on Oct. 16, and this time, Mr. Cuomo's office did not object. A flurry of reports in The Daily News and elsewhere had accused Mr. Cuomo of interfering with the commission's work, and commissioners said they sensed a momentary easing of pressure from the governor's office.

## **A Fight for Every Word**

The respite did not last long.

In his charge to the Moreland Commission, Mr. Cuomo had directed that it produce a preliminary report by early December. What resulted provided a grim assessment of state government as "a pay-to-play political culture driven by large checks," and offered a long menu of recommendations to curtail the influence of money in Albany.

The drafting of the document, however, engendered some of the most contentious debates between Mr. Cuomo's loyalists on the panel and those who favored a more aggressive approach — including an argument in mid-October over who should write it.

In the end, the author was handpicked by the governor's office.

The resistance was particularly overwhelming when the commission tried to include information that the governor's aides said could reflect poorly on Mr. Cuomo.

Ms. Perry was adamant that the preliminary report cover what investigators had learned about the powerful Real Estate Board of New York and its political donations.

Documents unearthed by investigators included an unusually direct memorandum sent by Steven Spinola, the organization's president, asking members to donate to Assembly Democrats.

"I can tell you that in private meetings with the speaker, the Senate majority leader and the governor, our past efforts to maintain a personal and supportive relationship was critical in shaping the outcome" of legislation, Mr. Spinola wrote, according to an email from Ms. Perry to the co-chairs that quoted the memo.

"Our future ability to adopt favorable legislation, stop terrible legislation or modify legislation to limit the pain to our industry is directly tied to our continued positive relationship," Mr. Spinola added.

In her email, Ms. Perry described Mr. Spinola's memo as "explicitly stating the obvious point that a 'supportive relationship' (i.e., the contribution of money) yields legislative 'outcome.' "

"This is exactly a key point of our report and, I think, should be included," she said.

Ms. Perry also wanted the report to highlight her team's discovery of email correspondence from a major New York City builder, Extell Development, about a coming fund-raiser for Mr. Cuomo tied to his birthday. The email discussed what amounted to a perfectly legal sidestepping of campaign-donation limits: funneling money through a series of limited-liability companies.

"As you know," Ms. Perry wrote, "I strongly believe we should include whichever docs we think will add the most value in the report and include them without fear or favor, as they say."

The report did recommend closing the limited-liability company loophole. But it omitted any mention of the real estate board, the governor's birthday party or Extell.

Another section addressed independent groups that had become big political spenders while sometimes keeping their donors' identities secret. Mr. Cuomo's executive order creating the commission had directed it to examine the activities of such groups. Yet the biggest lobbying spender in 2011 and 2012 was one that was created to support the governor's own agenda: the Committee to Save New York, which spent more than \$16 million and did not disclose where its money came from.

Mr. Schwartz had urged the co-chairs early on to steer clear of the Committee to Save New York.

“Larry made clear to me that he was concerned about the perception of subpoenas going to that entity so closely affiliated with the governor,” Mr. Fitzpatrick said in his email to The Times.

Mr. Fitzpatrick said he argued the opposite to Mr. Schwartz: that to avoid looking at entities related to Mr. Cuomo “would be bad for the governor in the eyes of the public.” He added, “We simply disagreed on that point.”

Still, Ms. Perry made sure that the Cuomo-friendly group was mentioned in drafts of the report. In the final product, however, it was gone — deleted by Ms. Calcaterra, according to a marked-up page obtained by The Times.

A section on campaign-finance reform became the report’s final battleground.

Many commissioners wanted the report to embrace the use of public matching funds for political campaigns — a system they saw as vital to curbing the influence of big donors, and one that the governor had publicly supported but never expended much political capital on. But Ms. Calcaterra sought to play down the idea, people who spoke to her said.

When proponents successfully pushed to give it more prominent play in the report, other commissioners, including some of Mr. Cuomo’s most loyal appointees, insisted on writing a dissent.

The dissenters argued that matching funds would accomplish little, given the recent deluge of spending by outside political groups, and that the commission had found no “persuasive evidence” that public financing would discourage corruption.

The debate focused increasingly on minutiae.

On the morning of Dec. 2, the day the report was to be released, the dissenters pressed to have the report state that only a “majority” of commissioners recommended public financing of campaigns.

They were overruled because supporters believed that using the word was meant to highlight the lack of unanimity and help opponents scuttle the recommendation.

At 5:52 p.m., the co-chairs received the latest draft of the report. Before they approved it, copies were sent to the news media — with the word “majority” inserted after all.

Mr. Williams raced upstairs in the commission’s offices to confront Ms. Calcaterra. She called it an unintentional mistake.

“You better fix it now,” he snapped, according to a person who was there.

Ms. Calcaterra assured him she would.

But that evening, commission staff members toasting the report's release at a nearby bar heard Mr. Williams yelling into his cellphone at Ms. Calcaterra. He was still demanding that the word "majority" be deleted.

"I am not backing down," he shouted. "You cannot operate like this."

Sometime that night, the report was quietly rereleased, with the offending language excised.

## **A Swift Demise**

The good feelings generated by the preliminary report's release did not last long. Many of those involved with the commission realized the end was near.

The investigation into lawmakers' outside earnings — what a Senate aide had called a witch hunt — had ended up in court, with no resolution in sight.

Ms. Rice, the co-chairwoman from Nassau County, resigned in January to run for Congress.

A month later, Ms. Perry, the investigations chief, also stepped down.

Still, investigators had made headway. One promising area was lawmakers suspected of using their campaign treasuries for personal expenses.

Investigators had zeroed in on some 20 legislators. One state senator appeared to be supporting a girlfriend in Connecticut and paying tanning-salon bills. Another was suspected of throwing parties for his grandchildren and buying them gifts.

District attorneys on the commission clamored to have the cases referred to them for prosecution. P. David Soares, the Albany district attorney, was especially insistent.

"Fitzy," he wrote to Mr. Fitzpatrick on Feb. 24, in slightly risqué terms, "I'm not a petty person but I did travel a lot to be with Moreland. I even paid for lunch and dinner. Was it too much to ask for just one referral? On the cheek? Just one iddy biddy (sp) referral?"

He signed the email "Restless in Albany."

Mr. Soares never got the files he was waiting for.

## **Epilogue**

The demise of the Moreland Commission was nothing like its birth.

To announce its creation, Mr. Cuomo held a news conference at the Capitol, and then barnstormed the state, making appearances near Binghamton, outside Buffalo and on Long Island.

His comments on the shutdown lasted 63 seconds.

It was March 29, less than 72 hours before the state budget deadline. Mr. Cuomo announced a budget deal with lawmakers that included some modest improvements in state ethics laws — strengthening bribery and corruption statutes and enhancing election-law enforcement.

Only when a reporter asked did Mr. Cuomo address the fate of the Moreland Commission and its more ambitious mission. The governor said he had achieved his goal of a deal on legislation, so the panel would be shut down.

Ms. Calcaterra exulted: On a conference call with staff members, a participant recalled, she checked off the ethics-reform measures, and asked, “Are you doing shots?”

But Mr. Bharara, the United States attorney, was deeply troubled. In his testimony at the commission’s public hearing in September, he had encouraged it to act aggressively, stand tough and safeguard their independence.

Now, some Moreland officials were concerned their work could wind up in the trash.

On April 9, Mr. Bharara and the head of his public-corruption unit met with the two remaining co-chairmen, Mr. Fitzpatrick and Mr. Williams.

Mr. Bharara was “laser-locked on the shenanigans from the second floor,” one attendee said. The prosecutor noted that the commission had been formed in response to the series of cases his office had brought against lawmakers — and observed how ironic it was that he was now looking into whether the governor had shut down investigations out of political expediency.

The next morning, in an appearance on WNYC radio, Mr. Bharara assailed the governor for shutting down the panel. It was an extraordinary rebuke.

Even as Mr. Bharara spoke, he said, his investigators were on their way to box up and cart off the commission’s files. Soon after, he directed Mr. Cuomo’s office to preserve records related to its own involvement with the panel.

Mr. Cuomo later asserted that the Moreland Commission had never, in fact, been independent of him. His involvement, he argued, therefore could not be considered meddling at all.

“It’s my commission,” the governor told Crain’s New York Business in late April. “I can’t ‘interfere’ with it, because it is mine. It is controlled by me.”

But as the federal prosecutor investigates the Moreland panel’s short life and sudden death, questions remain as to why Mr. Cuomo set it up in the first place, and how it fit his agenda.

Meeting with good-government advocates not long after announcing the panel's shutdown, Mr. Cuomo said that he had never meant to use it merely as leverage. "You can't set up a government investigations committee to extort the Legislature to act," he said.

On the other hand, he acknowledged that he had made clear to lawmakers in 2013 that if they did not give him the ethics reforms he wanted, he would set up such a commission until they caved in to his demands.

"They thought it was really abusive, and this was just a lever of using subpoenas and embarrassment to extort them to do something that they didn't want to do," he said, according to a participant in the meeting. "So they gave us everything that we couldn't get last year."

And yet when it came to explaining why he had held back from pressing legislators for publicly financed campaigns, which the people he was addressing saw as the ultimate way to purge the power of money in Albany, Mr. Cuomo took the high road. He said that to have used the Moreland Commission as a threat to bring lawmakers to heel would have been out of bounds.

"I couldn't say to them, 'You have to give me a public finance system, or Moreland is going to continue to investigate,' " the governor said.

"That would have been unethical, by the way — could have even been worse."

Jack Begg contributed research.

A version of this article appears in print on , Section A, Page 1 of the New York edition with the headline: Governor's Office Hobbled Corruption Investigations



# **EXHIBIT 3**



The  
Accountability  
Project

# ROUND AND ROUND THE REVOLVING DOOR

REGINA CALCATERRA'S DUBIOUS PAST IN POLITICS MADE HER A  
QUESTIONABLE CHOICE TO LEAD CUOMO'S DOOMED ETHICS COMMISSION

By CATRINEL BARTOLOMEU from THE ACCOUNTABILITY PROJECT



**A** key figure involved in the disbanded Albany ethics commission was sued by the state Board of Elections 17 times, and had once been found ineligible to run for an office she had campaigned for. She had learned the art of politics and governance from a state official convicted of fraud, and had used connections made while under his employ to earn money as a lobbyist and attorney, gaining the prestige to do so as an employee of the state—a perfect illustration of the revolving door in New York politics. She even admitted in writing that she cheated on a test to get her first job.

But Gov. Andrew Cuomo did not choose to make this woman an example of the kind of person his Moreland Commission to Investigate Public Corruption should examine. Instead, Cuomo appointed Regina Calcaterra his ethics commission's executive director.

Indeed, Calcaterra's main qualification for leading an ethics investigation—installed by Cuomo but nevertheless meant to act entirely independent of him—was that she had proved to be Cuomo's loyal subject while leading a previous investigation, taking orders from the governor's office and providing information to it.

The year 2014 should have been a great one for Calcaterra: She published a New York Times best-selling memoir and was serving in

the second prominent role Cuomo had chosen for her. But after Cuomo shut down the Moreland Commission amid reports the investigation had gotten too close to the governor's office and his allies, Calcaterra found herself in a state of uncertainty. The U.S. Attorney's Office has taken up many of the commission's defunct cases, and is investigating whether the Cuomo administration interfered in the commission's work, why the commission was disbanded, and whether the administration pressured commissioners to issue statements disputing the interference allegations, according to an August 2014 article in The Wall Street Journal.

## THE PUPIL

**C**alcaterra cut her teeth in politics and government under Alan Hevesi, who would later become city and state comptroller and was barred permanently from public office in 2007 after pleading guilty to defrauding the government and served 20 months in prison after admitting in 2010 that he'd abused his stewardship of the \$125 billion New York state pension fund (having approved a \$250 million pension fund investment in exchange for \$1 million in gifts to himself and his family).

When Calcaterra first joined Hevesi's team in 1989, working

ILLUSTRATIONS: LARRY NADOLSKY

on his failed first campaign for city comptroller, she did anything that was asked of her, including menial work like “stick(ing) stamps on envelopes and hand(ing) out literature at subway stations during rush hour.” It was the first example of Calcaterra taking advantage of New York politics’ revolving door: She was a lobbyist for a veterans organization when she met Hevesi, and would eventually be hired as the comptroller’s legislative director in 1994, even though she had yet to finish law school.

In 2000, Calcaterra formed a lobbying firm, then went back into government just two years later at the largest pension fund controlled by the city Comptroller’s Office, the New York City Employee Retirement System. She jumped from there to a \$175,000-a-year gig at Barrack, Rodos & Bacine, a law firm that donated over \$90,000 to Hevesi’s campaign for state comptroller in 2002, was hired that year by the state Comptroller’s Office to lead litigation on a \$6 billion lawsuit, and was retained by Hevesi after he took office in 2003. By 2010, Calcaterra took the revolving door for one more spin as she ran for office in the state Senate, piling up large donations from her previous state-contractor employers, before eventually being removed from the ballot when she was found in violation of the state’s residency requirement.

As with so much in her memoir, “Etched in Sand,” Calcaterra’s portrayal of her time with Hevesi is at least selective and perhaps misleading. While some of her work for Hevesi is chronicled in the memoir, she omits his ethical problems and never mentions his convictions, even though they left her without the political lodestar she’d had for nearly two decades. As it turns out, Hevesi wasn’t the only older figure who would let her down with unethical activity, nor was he the first.

## UP FROM POVERTY

**C**alcaterra learned to lie out of necessity. The middle child out of five born to a drug-addled, abusive woman her children called “Cookie,” (having decided their mother didn’t deserve the title “Mom”) Calcaterra and her siblings had to tell falsehoods to social services agencies to keep themselves from being separated in the foster-care system.

Cookie was wily and resourceful, playing the part of a down-and-out—but occasionally capable—woman to get close to men for money and shelter

and repeatedly regaining custody of her children to extract a larger welfare check. Meanwhile the children had to fend for themselves, stealing food and clothing and befriending the right people, doing whatever was necessary to survive on the fringes of society over the sometimes monthslong periods during which they were deserted by their mother.

The young Calcaterra got smart on the ins and outs of the social services system, at first to keep her siblings together and later to escape from their mother permanently. When Cookie

“being the body that decides who receives which resources, and how much of them,” and feeling inspired that her work could help others. But it wasn’t long before she began to understand that public service also has a much shrewder, more self-serving side, observing during an internship in Albany that public policy was like a “chess game ... sheer strategy and full emotional investment are needed for the most convincing players to win.”

Calcaterra puts her own drive to win on display in “Etched in Sand,” recounting the difficulty she had



“Handing out literature during rush hour.”

was absent, the children fabricated stories to tell inquiring authorities, claiming she worked long hours, misrepresenting the latest bruise or burn and bracing themselves for her return, along with the life-threatening beatings. Although loyalty to her siblings nearly kept Calcaterra silent, she divulged everything one day when a social worker confronted her and said, “Regina, she’ll kill you if you stay here.” At age 14, Calcaterra declared emancipation; she became a ward of the state and her mother no longer had control over her.

Although still a child, she finally had a chance to give her life some direction, moving in with a Long Island foster family, graduating high school and finding the wherewithal to get accepted into SUNY New Paltz.

In college, she found her calling to public service, realizing that the government’s power results from

getting a job immediately out of college in 1988, when a good job required a typing test, which Calcaterra repeatedly failed, having never learned how. She figured out a way to pass, though: “I’m allowed to practice on the same script and the same typewriter I’ll be using for the test,” she writes. “I take my time to type the script with no mistakes ... then I place it under my typewriter. ... It’s perfect.”

## LOBBYING FROM JUST OUTSIDE

**W**hereas before she met Hevesi, Calcaterra was just a minor lobbyist working for the Queens-based Eastern Paralyzed Veterans Association, her work in the 1990s launched her into the world of big-time lobbying.

Instead of working for someone else, Calcaterra could now put her name on the door, and partner with Carl Figliola, a Hevesi supporter and golfing buddy to then-Mayor Rudy Giuliani.

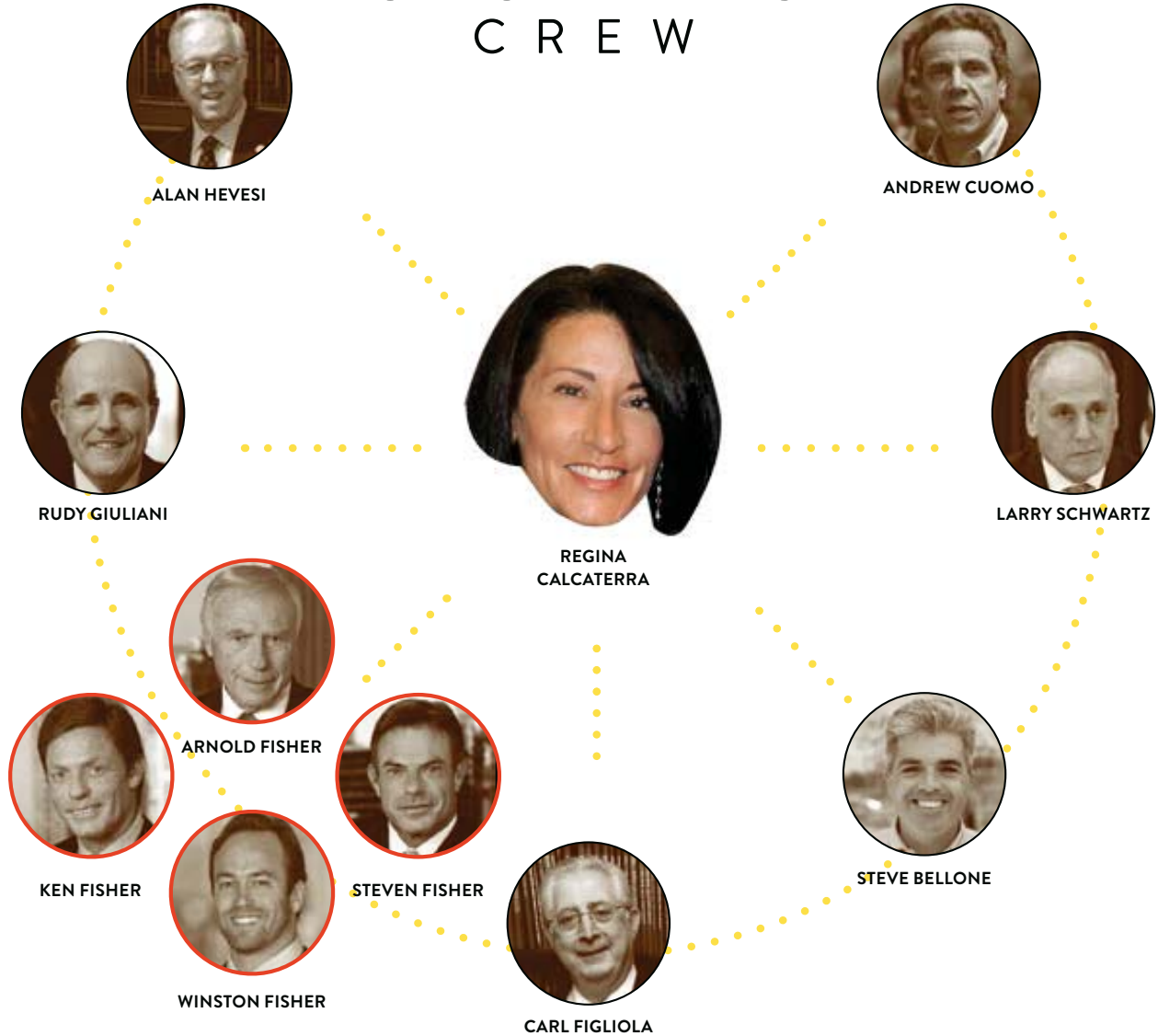
Figliola and Calcaterra worked together in several incarnations of their firm in the early 2000s, including Figliola and Calcaterra, CLF Consulting and Carl Figliola & Associates, where they were joined by major players from both the Hevesi and Giuliani camps. Their cohort included Hevesi’s lieutenant Jack Chartier, former Hevesi employee Jennifer Dunclee and future director of corporate governance for the state Comptroller’s Office under Hevesi, Julie Gresham. To top it off, Giuliani’s own cousin, Catherine, joined the firm. Despite the public rancor between Giuliani and Hevesi in those years, Figliola and Calcaterra were able to leverage their access on both sides to build up a lucrative portfolio of clients, including 27 with city agency business. But even then, Calcaterra attempted to downplay the value of the government relationships her firm had, telling Newsday in 2001 that Figliola’s relationship with the mayor “isn’t business-related. It’s personal and strictly personal.”

Calcaterra wrote that she lived the life of a “young hotshot” in “Etched in Sand,” but didn’t give much detail beyond that; she was in fact living it up and building a public persona solidifying her high-powered network through her personal relationships. A source close to Calcaterra at the time described how she cultivated a proximity to power that gave her the limelight she had always sought by going out regularly for drinks with Chartier, Figliola and his “strictly personal” friend Giuliani. The mayor convoyed the clique to his favorite spot, Club Macanudo, a cigar bar on East 63rd Street, to upscale restaurants, and even to Yankees games, where Calcaterra once threw the first pitch.

One of the boldest examples of Calcaterra pushing her Hevesi relationship with clients came when Figliola-Calcaterra took on the Fisher Brothers real estate development company as lobbying clients. Fisher Brothers, which had been active in New York real estate for over a century and had built over 10 million square feet of office space in the city, was also one of Hevesi’s biggest campaign contributors—providing \$92,000 to the then-city comptroller’s coffers in 1999 alone.

Hevesi’s first deal with Fisher

# CALCATERRA'S CREW



**ALAN HEVESI:** Calcaterra's mentor, former city and state comptroller, served 20 months in prison for misusing state pension fund

**CARL FIGLIOLA:** Calcaterra's former lobbying partner, Hevesi supporter, buddy of Rudy Giuliani

**RUDY GIULIANI:** Former New York City mayor, Calcaterra drinking buddy

**FISHER BROTHERS:** Real-estate giants, Calcaterra clients, huge Hevesi donors

**STEVE BELLONE:** Suffolk county executive, Calcaterra's boss during her time in Long Island

**GOV. ANDREW CUOMO:** Established Calcaterra as head of Moreland Commission

**LARRY SCHWARTZ:** Cuomo aide, presumably Calcaterra's second-floor contact during Moreland Commission





The mayor took them to Yankees games, where Calcaterra once threw the first pitch.

Brothers in 1998 invested \$105 million from the New York City Employees Retirement System in FdG Capital Partners, a fund run by the Fisher family. An unusual investment for the retirement funds managed by the Comptroller's Office, FdG didn't have much of a track record, having been launched only a year earlier with partners who had not worked together managing private equity, according to a New York Times report from 2001. Two years later, Hevesi endorsed an investment of \$1 billion into another Fisher Brothers venture. This time, the city's investment adviser did not have a chance to review the plan before Hevesi approved the investment, igniting a major controversy over Hevesi's relationship with his key campaign funders—with Figliola-Calcaterra caught in the middle.

Amid heavy opposition from Giuliani—"It seems to me that the circumstances suggest inappropriate use of influence, and it's not the first time that's happened with Comptroller Hevesi," Giuliani later told reporters—Fisher Brothers withdrew the proposal in 2000.

Figliola and Calcaterra dissolved their relationship in late 2001, and Calcaterra involved herself in a series of ventures: She made her own lobbying firm, launched a "Women PAC" in 2001 and worked on personal issues.

But the revolving door turned again for her in 2002, when she was hired by NYCERS, the same retirement fund that had gotten Hevesi in trouble with the Fisher Brothers. She was named deputy general counsel to the \$38 billion pension fund, where according to a copy of her 2006 resume obtained by The Accountability Project, she "provided counsel to the fund's Board of Trustees," which included Hevesi.

Through her Women PAC, Calcaterra managed to regularly run afoul of campaign finance regulations. She was sued 17 times by the city's Board of Elections for failing to file required financial disclosures. Calcaterra offered an excuse for her conduct in 2013, telling the Daily News she thought the PAC was closed in 2003, despite her having contacted the Board of Elections about it in 2004, 2006 and 2009. The matter was resolved in 2009, a year before her run for Senate, when she agreed to make up the filings and pay a fine.

### INSIDE & OUTSIDE

**C**alcaterra's gig at NYCERS was short-lived, and she was soon back in the private sector, this time working for a big payday from a government contract.

Back when terrestrial phone lines were still the biggest phone business

around, WorldCom, the nation's second-largest long-distance company, was committing securities fraud. In June 2002, the firm announced it had overstated its previous year's earnings by more than \$3.8 billion. As it happened, the New York state pension fund was then the largest shareholder in WorldCom, so the fund launched a lawsuit against the phone service. The Comptroller's Office hired an out-of-state law firm, Barrack, Rodos & Bacine, to make their case in July 2002, while Carl McCall was still the state's comptroller and Hevesi was running for the job. BR&B and its partners and PACs donated more than \$90,000 to Hevesi's 2002 campaign, and maintained their position as lead counsel once Hevesi took office.

There was one major change at BR&B around the time Hevesi was elected in 2002, though: They hired Calcaterra, even though she had never worked as a litigator. She became the point person for handling BR&B's relationship with the state Comptroller's Office and would speak with Hevesi and those in his office "several times a day," she testified in an unrelated lawsuit.

In years to come, the relationship between Hevesi, BR&B and Calcaterra remained a close one. Calcaterra stayed with the firm until December 2011, having opened the firm's New York branch and become a partner.

### ON HER OWN

**B**ut Calcaterra would only be able to use her relationship with Hevesi as long as he was in power. When he was barred from elected office in 2007 and imprisoned in 2011, Calcaterra had to find a new power structure to be a part of.

Initially, she tried to make it by herself, running for a state Senate seat in 2010. "I know it's a long shot," she writes in "Etched in Sand," "but everything I've done up to now has been a long shot too."

It turned out the odds were even more stacked against her than she'd thought: She wasn't eligible to run for the office, as she hadn't been a New York state resident for the prior five years. Nevertheless, Calcaterra pressed forward, raising more than \$290,000 for her campaign, including more than \$80,000 from her old BR&B contacts—the contacts she built while working hand-in-hand with the now-convicted Hevesi.

Calcaterra insisted she was eligible to run, despite a lawsuit objecting to

her candidacy. Calcaterra had lived in Pennsylvania for several years while working for BR&B. She'd gotten a Pennsylvania driver's license, had a bank account there, voted four times there, filed taxes as a Pennsylvania resident, participated in the local Democratic club and worked as a ballot official. She even filed for divorce in Pennsylvania in 2006 (an episode and a marriage that both go completely unmentioned in her memoir). Despite all that, she claimed in court she'd really been a New York resident for much of that time. The court eventually found that Calcaterra "ha(d) not met the constitutional requirements of a five year continuous residency," and removed her from the ballot.

### ON A NEW TRACK WITH CUOMO

**A**nd then the ever-evolving Calcaterra found a way to get involved in Long Island politics, even though she wasn't eligible to be an elected official there.

Her failed run for the state Senate was followed by a brief stint in Suffolk County, where she was the chief deputy executive to Steve Bellone. When Superstorm Sandy hit in 2012, Calcaterra writes, she was driven to further service. She describes an overwhelming and personal sense of loss looking at the devastated island from above: "My mother left behind scorched earth with the same totality that Mother Nature had swept my island," she writes. Moved by her own nostalgia, Calcaterra iterates her memoir's mission: "This is the story of how it took a community to raise a child ... and how that child used her future to give hope back."

But as personally moving as her return home might have been, Calcaterra's reign on Long Island revealed a less-than-wholesome approach to governance. She played a key role in the \$23 million sale of the Foley Nursing Home, in which the Bellone administration failed to follow competitive bidding procedures. Bellone's team rushed transactions and bypassed safeguards, favoring private buyers who were given financial advantages, according to a 2013 Newsday investigation.

When Calcaterra drafted a caustic memo suggesting that Bellone's predecessor Steve Levy could be the subject of a federal fraud investigation because of his inaccurate fiscal projections, the document was leaked



*In Bellone's office, she "went in cursing... she threw a water bottle at someone and missed."*

from her office, forcing Bellone to apologize and disown it as a "rookie mistake."

Suffolk County Legislator Kate Browning, who first met Calcaterra in a discussion about the Foley nursing home, explained in an interview that while Calcaterra gave her two weeks to come up with a plan for the nursing home, Calcaterra refused a plan that called for a request for proposals, the standard Suffolk County contracting process. Browning described Calcaterra as intimidating and abusive, cursing on multiple occasions at county government officials. "I would tell her we had a process that had to be followed, for RFPs for example, but she didn't want to follow it, she wanted it done her way and right away," Browning said.

Indeed, the Newsday investigation showed that because county officials were unhappy with existing RFPs, they chose to pursue a negotiated deal, and Calcaterra spent only a week meeting with potential buyers and got offers from three of them, while others declined to make an offer because they felt rushed. After the winning bidders, the Shermans, made their offer, other potential buyers were not given a chance to raise theirs, and the deal was sealed within a few hours.

"It was her way or the high way, she was extremely rude," Browning said of Calcaterra's reign in Bellone's office. Browning described an incident that

allegedly occurred after Superstorm Sandy, when some of the county's probation officers had to be moved to a different building to make space for FEMA officials. While the probation officers had no problem with it, Browning said, Calcaterra "went in cursing and swearing at the probation officers and county employees. I was told that she threw a water bottle at someone and missed them."

Luckily, Calcaterra had a way out. Soon after Superstorm Sandy, Cuomo formed his first Moreland Commission on Utility Storm Preparation and Response, and Calcaterra was appointed to the commission and moved out of Suffolk County. Bellone denied widespread speculation that, as former Suffolk Chief Deputy County Executive Paul Sabatino put it, "they moved her up as a favor to Bellone, because she had become an embarrassment."

#### A GOOD SOLDIER

**C**alcaterra might have made an impression on Cuomo and his staff when he was serving as the state's attorney general and prosecuting Hevesi. But in her role serving on that first Moreland Commission, Calcaterra showed that she could do what it would take to ensure a good outcome for the governor's office.

The first Moreland Commission

was formed to scrutinize the Long Island Power Authority's response to Superstorm Sandy, in which repair crews were never dispatched and phones remained unanswered while more than 90 percent of its 1.1 million customers were left without power, according to a New York Times investigation. While proceedings went smoothly overall, the commission's final recommendation—to privatize the utility—seemed calculated to many onlookers. The conclusion appeared "dictated, and predetermined because it didn't match the findings in the report," according to Matthew Cordero, a member of the LIPA board of trustees who also claimed that the executive branch, through Calcaterra, manipulated the public hearings to their benefit, always choosing four or five witnesses who supported the second floor's perspective to speak first, and then severely limiting time for public statements.

Mark Green, the former city public advocate who served on the commission with Calcaterra, explained in an interview that he had no problem with Calcaterra's role in that first commission because "we weren't a law enforcement commission, we were a policy commission and it was just assumed that Regina was going straight to the second floor and reporting all that the commission was doing."

So, despite Calcaterra having been successfully removed from a ballot for office in New York state, having been sued 17 times for campaign finance violations, having served under the man convicted of perhaps the most prominent corruption scheme in Albany in recent decades, and then having used his connections to go round and round the revolving door between the private sector and government work, Cuomo installed her as head of his ethics commission in July 2013.

Of course, the same conduct was not expected from the second Moreland Commission. Keeping the governor's office in the loop would have undermined the basic goals of the commission: to investigate corruption in Albany, wherever it might be found.

Nevertheless, Calcaterra was not just accused by her colleagues in The New York Times of reporting back to the governor and his aide, Larry Schwartz, but also of rooting through garbage cans, hacking emails and thwarting independent investigations in an attempt to put the kibosh on subpoenas that may have besmirched Cuomo and his allies.

Sources within the Moreland Commission told The Accountability Project that Calcaterra was "shockingly underqualified" and that she "botched" her operational responsibilities like public hearings, contracts and document management. Instead, they said her primary motivation was to protect the governor and to display her loyalty to the executive branch. These commissioners spoke on condition of anonymity because of Bharara's ongoing investigation.

Executive Order 106 issued by Cuomo to create the commission stated that "The Commission shall conduct public hearings around the State to provide opportunities for members of the public and interested parties to comment on the issues within the scope of its work," and according to a former commission staffer, "Calcaterra was personally responsible for managing the public hearings, of which there were supposed to be several, at least, but there ended up being two or two and a half. And there was only one public hearing where the public could actually speak."

There were originally four public hearings planned. The first was held in a venue so small that members of the public could not get in, even to listen, unless they were on a list of speakers. Over 100 people lined up outside Pace University on Sept. 17, 2013, and the handful who did get in only got three minutes to speak. Like the hearings that followed, this first hearing was "announced with very little notice, such that unless you were particularly looking out for them, there was no way you'd know about it," according to a source who was on the commission. "There was no effort to get the word out."

The second hearing was held for the Capital Region on Sept. 24, 2013, and while some members of the public spoke, the majority of the proceedings focused on vetted testimony from public policy experts and advocacy organizations. According to the commission's own press release for the third hearing at the Javits Center in Manhattan on Oct. 28, 2013, members of the public were "invited to attend only. Those invited to provide testimony to the commission will be the only speakers for the hearing." And a fourth hearing, initially scheduled for Sept. 18, 2013, in Buffalo and announced on the commission's website in July, was canceled and never rescheduled.

Some of Calcaterra's critics on the commission believed she was



intentionally preventing the public from speaking in an effort to protect the governor, and that her vehement loyalty cultivated an atmosphere of fear and secrecy among commission staffers—one of whom described Calcaterra as wavering between “uninterested in what we were doing, to hot-tempered and aggressive about what we were doing.” Cursing and screaming often accented her disproportionate responses, according to another former commission member.

As previously described in City & State, Calcaterra nixed the commissioner’s original independent report writers, insisting instead on a writer—Alex Crohn—whom Cuomo preferred and who had worked for the governor’s counsel, Mylan Denerstein. Once the report was written and a last-minute dissent was included to indicate that some of the commission members (7 out of 25) were not in favor of public financing, the two factions argued extensively about the use of the word “majority” in the report, which some thought made it sound like the commission was not overwhelmingly in favor of public financing of electoral campaigns. They finally agreed all instances of that word would be removed from the final report. Calcaterra, however, released the report to the press while the co-chairs and writer were still working on removing all instances of the word and finalizing the report.

For a commission investigating public integrity that was charged with making recommendations to strengthen laws and procedures and making criminal referrals, the Moreland Commission failed to identify any specific examples of public corruption. The indictment of former Assembly Speaker Sheldon Silver highlighted what the Moreland Commission wasn’t able to complete during its truncated tenure. The commission’s data about the legislator’s outside income was merged with the U.S. attorney’s own investigation in order to file the 35-page criminal complaint against Silver. Bharara revealed at a news conference after Silver’s arrest. Having spoken out harshly against the shuttering of the commission several times, Bharara spooked lawmakers again when he said the charges against Silver “in our view go to the very core of what ails Albany: lack of transparency, lack of accountability and lack of principle—joined with overabundance of greed, cronyism and self-dealing. But we will

keep at it.”

If Cuomo had wanted the corruption investigation to yield better results, there was one example he could have turned to: the Moreland Commission his father, Mario, appointed in 1987. As Richard Emery, a lawyer who served on that commission, said in an interview, “I knew of no contact between the governor’s office and our commission, other than on the issues of budget,” adding “the thought of anyone communicating to us would have been like someone trying to influence the conclave that elected the pope.”

Andrew Cuomo’s Moreland Commission was certainly no conclave. But the person he chose to lead it was about as suitable as a Borgia pope.

## CALCATERRA WAS NOT JUST ACCUSED BY HER COLLEAGUES OF REPORTING BACK TO THE GOVERNOR AND HIS AIDE, LARRY SCHWARTZ, BUT ALSO OF ROOTING THROUGH GARBAGE CANS, HACKING EMAILS AND THWARTING INDEPENDENT INVESTIGATIONS



*With research by Azure Gilman. The Accountability Project is a nonpartisan investigative journalism organization focused on political corruption in New York.*

# **EXHIBIT 4**





THE UNITED STATES ATTORNEY'S OFFICE  
SOUTHERN DISTRICT *of* NEW YORK

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Department of Justice

U.S. Attorney's Office

Southern District of New York

FOR IMMEDIATE RELEASE

Thursday, January 22, 2015

## **New York State Assembly Speaker Sheldon Silver Arrested On Corruption Charges**

### **Allegedly Used Official Position To Obtain \$4 Million In Bribes And Kickbacks Concealed As Income From Outside Law Practice**

Preet Bharara, the United States Attorney for the Southern District of New York, and Richard Frankel, Special Agent-in-Charge of the Criminal Division of the New York Field Office of the Federal Bureau of Investigation ("FBI"), announced today that New York State Assembly Speaker SHELDON SILVER was arrested this morning on charges that he used his official position to receive nearly \$4 million in bribes and kickbacks from people and businesses in exchange for his official acts, and that SILVER masked these payments from public view by disguising the payments as income from what he claimed was a law practice primarily focused on personal injury matters. SILVER was placed under arrest at the FBI in lower Manhattan, this morning, and is scheduled to appear before U.S. Magistrate Judge Frank Maas in Manhattan federal court later today. Judge Maas also issued seizure warrants to prevent SILVER from accessing approximately \$3.8 million in proceeds alleged to be traceable to the charged corruption offenses until the case is resolved.

U.S. Attorney Preet Bharara said: "Over his decades in office, Speaker Silver has amassed titanic political power. But, as alleged, during that same time, Silver also amassed a tremendous personal fortune – through the abuse of that political power. All told, we allege that Silver corruptly collected some \$4 million in bribes and kickbacks disguised as 'referral fees.' Those disguised bribes and kickbacks account for approximately two-thirds of all of Silver's outside income since 2002.

"As today's charges make clear, the show-me-the-money culture of Albany has been perpetuated and promoted at the very top of the political food chain. And as the charges also show, the greedy art of secret self-reward was practiced with particular cleverness and cynicism by the Speaker himself. Among other things, we allege that Sheldon Silver, Speaker of the New York State Assembly, was on retainer to a mammoth real estate developer at the very same time that the chamber he dominates was considering and passing legislation vitally affecting the bottom line of that developer; at the very same time that he was hearing out lobbyists paid by that developer and at the very same time that he was deliberately keeping secret from the public any information about this lucrative side-deal, in violation of the law.

"Politicians are supposed to be on the people's payroll, not on secret retainer to wealthy special interests they do favors for. These charges go to the very core of what ails Albany – a lack of transparency, lack of accountability, and lack of principle joined with an overabundance of greed, cronyism, and self-dealing."

FBI Special Agent-in-Charge Richard Frankel said: “As alleged, Silver took advantage of the political pulpit to benefit from unlawful profits. When all was said and done, he amassed nearly \$4 million in illegitimate proceeds and arranged for approximately \$500,000 in state funds to be used for projects that benefited his personal plans. We hold our elected representatives to the highest standards and expect them to act in the best interest of their constituents. In good faith, we trust they will do so while defending the fundamental tenets of the legal system. But as we are reminded today, those who make the laws don’t have the right to break the laws.”

According to the allegations contained in the Complaint unsealed today in Manhattan federal court:

For more than two decades, SHELDON SILVER has served as Speaker of the Assembly, a position that gives him significant power over the operation of New York State government. SILVER used this substantial power – including, in particular, his power over the real estate industry and his control over certain health care funding – to unlawfully enrich himself by soliciting and obtaining client referrals worth millions of dollars from people and entities in exchange for SILVER’s official acts, and attempting to disguise this money as legitimate outside income earned from his work as a private lawyer. In particular, SILVER claimed on financial disclosure forms required to be filed with New York State and in public statements that the millions of dollars he received in outside income while also serving as Speaker of the Assembly came from a Manhattan-based law firm, Weitz & Luxenberg P.C., where SILVER claimed to work “representing individual clients” in “personal injury actions.” These claims were materially false and misleading – and made to cover up unlawful payments SILVER received solely due to his power and influence as an elected legislator and the Speaker of the Assembly.

The scheme provided SILVER with two different streams of unlawful income: (i) approximately \$700,000 in kickbacks SILVER received by steering two real estate developers with business before the state legislature to a law firm run by a co-conspirator, and (ii) more than \$3 million in asbestos client referral fees SILVER received by, among other official acts, awarding \$500,000 in state grants to a university research center of a physician who referred patients made ill by asbestos to SILVER at Weitz & Luxenberg.

### ***Unlawful Income From the Real Estate Law Firm***

SILVER entered into a corrupt relationship with a co-conspirator (“CC-1”) who had been SILVER’s counsel in the Assembly and operated a real estate law firm (the “Real Estate Law Firm”) that specialized in making applications to the City of New York to reduce taxes assessed on properties.

Beginning in at least 2000, SILVER approached two prominent developers of properties in Manhattan, one personally and one in part through a lobbyist, and asked the developers to hire the Real Estate Law Firm. The developers – both of whom lobbied SILVER on real estate issues because their profits depended significantly on state legislation favorable to their business– agreed to use the Real Estate Law Firm as SILVER had requested. Over the years, these developers paid millions of dollars in legal fees to the Real Estate Law Firm. SILVER received a cut from the legal fees amounting to nearly \$700,000. SILVER had no public affiliation with the Real Estate Law Firm and performed no legal work at all to earn those fees, which were simply payments for SILVER having arranged the business through his official power and influence.

While continuing to receive the fees and in furtherance of the scheme, SILVER took official action beneficial to the developers. For example, while SILVER was publicly associated with advocating for tenants, a proposal made by the one of the developers who sent work to the Real Estate Law Firm was in substantial part enacted in real estate legislation in 2011 with SILVER’s support.

### ***Unlawful Income From Asbestos Client Referrals***

SILVER also entered into a corrupt arrangement with a leading physician who specialized in the treatment of asbestos-related diseases (“Doctor-1”) through which SILVER issued state grants and otherwise used his official position to provide favors to Doctor-1 so that Doctor-1 would refer and continue to refer his patients to

SILVER at Weitz & Luxenberg, a firm with which SILVER was affiliated as counsel. Specifically, SILVER arranged for the State of New York to fund two state grants – each for \$250,000, and paid out of a secret and unitemized pool of funds controlled entirely by SILVER – for a research center Doctor-1 had established. SILVER used his official position to provide Doctor-1 with other benefits as well, including helping to direct \$25,000 in state funds to a not-for-profit organization for which one of Doctor-1's family members served on the board, and asking the CEO of a second not-for-profit to hire a second family member of Doctor-1.

From 2002 to the present, SILVER received more than \$3 million from legal fees Weitz & Luxenberg received from patients Doctor-1 had referred to SILVER at the firm while SILVER was taking official actions to benefit Doctor-1. SILVER did no legal work whatsoever on these asbestos cases, his sole role having been to use his official position and access to state funds to induce Doctor-1 to provide him with these lucrative referrals.

### ***Silver's Efforts to Cover Up the Scheme***

SILVER took various efforts to disguise his unlawful outside income and prevent the detection of the scheme. SILVER listed on his official public disclosure forms that his outside income consisted of "limited practice of law in the principal subject area of personal injury claims on behalf of individual clients," which was false and misleading. Beginning in 2010, SILVER's disclosures changed to state that the source of his legal income was a "Law Practice" that "includ[ed]" being of counsel to Weitz & Luxenberg. SILVER never disclosed his relationship with the Real Estate Law Firm or any work beyond what he claimed was a "personal injury" practice.

SILVER also repeatedly made false statements about his outside income in his public statements, including the following:

- SILVER claimed he performed legal work consisting of spending several hours each week evaluating legal matters brought to him by potential clients and then referring cases that appeared to have merit to lawyers at Weitz & Luxenberg. In fact, SILVER did no such work on the asbestos cases and obtained those referrals to Weitz & Luxenberg based on his corrupt arrangement with Doctor-1.
- SILVER claimed his law practice involved the representation of "plain, ordinary simple people." In fact, SILVER represented some of the largest real estate developers in the State of New York, whose interests are in many ways dependent on state legislation.
- SILVER claimed through his spokesperson that SILVER found clients by virtue of his having been a "lawyer for more than 40 years," in a manner that was "not unlike any other attorney in this state, anywhere." In fact, SILVER found his lucrative asbestos and real estate developer clients solely by virtue of his official position.
- SILVER recently stated through his spokesperson that "[n]one of his clients have any business before the state." In fact, SILVER's outside income included millions of dollars of fees obtained through real estate developers with significant business before the state and a prominent physician to whose benefit SILVER provided state funding and other benefits related to SILVER's official position.

Finally, SILVER thwarted the Moreland Commission to Investigate Public Corruption so that it would not learn of his illegal outside income, first by filing legal motions on behalf of the Assembly and taking other action to block the Moreland Commission's investigation into legislative outside income and then by negotiating with the Governor of New York to prematurely terminate the Moreland Commission.

SILVER, 70, of New York, New York, is charged with two counts of honest services fraud, one count of conspiracy to commit honest services fraud, one count of extortion under color of official right, and one count of conspiracy to commit extortion under color of official right. Each of these five counts carries a maximum penalty of 20 years in prison. The maximum potential sentences in this case are prescribed by Congress and are provided here for informational purposes only, as any sentencing of the defendant will be determined by a judge.

U.S. Attorney Bharara praised the work of the Criminal Investigators of the United States Attorney's Office and the FBI, who jointly conducted this investigation. Mr. Bharara also noted that the investigation is continuing.

This case is being prosecuted by the Office's Public Corruption Unit. Assistant U.S. Attorneys Howard S. Master, Carrie H. Cohen, Andrew D. Goldstein, and James McDonald are in charge of the prosecution.

The charges contained in the Complaint are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

U.S. v. Sheldon Silver Complaint

U.S. v. Sheldon Silver Seizure Affidavit

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**Component(s):**

USAO - New York, Southern

**Press Release Number:**

15-020

Updated May 15, 2015

# **EXHIBIT 5**

## ENTERTAINMENT

# I was homeless — now I'm fabulous

By **Post Staff Report**

August 6, 2013 | 4:00am



Regina Calcaterra with her dogs Maggie (left) and Oscar in her home on the North Fork of Long Island.

Rene Cervantes

As a homeless child, Regina escaped her abusive mother with trips to the beach. Now she owns a beautiful home just blocks from the Long Island shore. (Rene Cervantes)

*Regina Calcaterra was a partner at a high-powered Manhattan law firm and is now a successful politician, working for Gov. Andrew Cuomo as an executive director investigating public corruption. She's surrounded by New York's powerful elite. But until a few years ago, few of them knew she grew up with a violently abusive mother who left her homeless on Long Island, practically raising her siblings as they were abandoned for months at a time. Now, she's sharing her story with the world in her memoir, "Etched in Sand: A True Story of Five Siblings Who Survived an Unspeakable Childhood on Long Island," released today. She tells The Post's Kate Storey her tale:*

I'm reclining on a couch on the brick patio of my home in North Fork, LI, gazing at the sparkling creek that runs behind it while my boyfriend cooks fresh tilapia on the grill. My cocker spaniels, Oscar and Maggie, are sitting at my feet.



Sometimes I have to pinch myself that I created this safe, warm, adorable environment for myself. I have security, love, friends, health and a powerful job fighting corruption for the state.

I still can't believe that, as a child, I grew up homeless, living in a station wagon with my four siblings, just miles away.

My mother was a part-time barmaid and full-time alcoholic and drug addict who had five kids by five different dads — none of whom were in our lives.

Calling our mother "Mom" just didn't fit, so I called her Cookie, the nickname her parents gave her when she was a kid.

Cookie was about 5-foot-5, with dyed red hair that was always pulled back. She never wore makeup and always smelled of stale alcohol. She was a heavy-set woman with a loud, grating cackle for a laugh.

She'd come and go out of our lives, abandoning us for months at a time.

My older sisters, Camille and Cherie, took care of me until they were old enough to move in with friends, and then I took care of the younger two, Rosie and Norman.

When we were all under 10, we lived above a factory in St. James, in a middle- to upper-class portion of Long Island. The sharp stench of the manicure nail glue manufactured there filled the space, but that was the least of our problems. There was rarely enough food and, when Cookie was around, there were regular beatings. Fighting back against Cookie would result in getting tied to the radiator and punched. I often received the worst of the assault, because my father was the one who broke Cookie's heart.



To escape the violence, we'd put the little kids in the stroller and walk the two miles to Cordwood Beach, passing beautiful homes surrounded by tall, iron gates.

We would spend all day at the beach. We could blend in easily because everyone there looks the same regardless of social status. It's just you and your bathing suit.

While the rich Long Islanders would munch on their snacks, we were a ragtag bunch, sitting under the trees filling our bellies with onion grass we'd picked for lunch.

In the fall, the five of us would board the school bus and go to classes, even though we weren't always registered. Cookie often had warrants out for her arrest, and registering us for school gave the cops an easy way to track her down. Back in the '70s, it was easy to live under the radar. We'd be in school for a few months, then miss a few months running from the cops, or taking turns staying home with the younger kids.

It also helped to lie. I started making up stories with my siblings to explain our absent mother (she was always working), truancy records (we just moved and lost the paperwork from the other school) and bruises and burns (falling down stairs, holding an iron). We pretended to look and act like the other kids at school — not always easy in such a wealthy part of Long Island. Sometimes the authorities got wind of how we were living, and we'd be placed in separate foster homes.

Despite the worry about getting caught out, I loved learning and school. It was a temperature-controlled environment with free food and a reassuring routine. It occupied my brain and kept me thinking about other things.

And, while school was usually an escape, my second-grade teacher exposed my home life, making class a nightmare.

"This is Regina, she's a foster child, so she won't be around for very long," he said in the front of the classroom.

I felt paralyzed. The blood rushed to my face. My cover story was that I lived with an aunt and an uncle, but now that was blown.

We eventually ended up back in Cookie's care and spent most of 1977 living out of her station wagon. We hung out at gas stations, where we bathed in the sinks and were forced to beg around the customers.

As fancy cars lined up for gas on their way back from the Hamptons, Cookie would walk up to them and point to her car full of children. We knew the drill. We'd put on our most miserable, desperate faces and eventually some kind stranger would fill up our gas tank.

That winter we moved into a rental, and I went back to school. A teacher recognized me sitting in the lunchroom eating the free breakfast and took me to the principal's office.

"You aren't registered, Regina. Why have you and your siblings been out of school for the last few months?" the teacher asked.

"Oh, it's because we moved and were in a different school then," I explained innocently. "We just moved back here. And I think we lost the paperwork in the move."

The truth? We'd failed the health exam required to register for school because of lice.

By the time I was 12, I considered myself the mother figure to little Norman, 10, and Rosie, 6.

I would shoplift Kraft mac 'n' cheese for them. The box was very thin, so I could slide it into my pants and walk out with it. So, I'd feed the kids that and I'd steal uppers from Cookie's pills and drink vinegar to make my own hunger go away. I started losing clumps of hair from malnutrition.

One day Cookie came home, irritable from her hangover, and began hitting Rosie. I jumped to her defense, and Cookie grabbed me by my hair and began bashing my face into the ground.

That time, the injuries were so severe that when I went to school the next day, my teacher notified the authorities.

A social worker was waiting at the house after school and explained to me that, at nearly 14 years old, I could be emancipated from my mother. I signed the papers, giving me freedom and immediately putting Norman and Rosie into safe foster care.

I was away from her, but I never felt relief. When my mother found out about my efforts to emancipate myself and take away her guardianship of my siblings, she kidnapped them and fled to another state.

I was distracted and constantly worried about my younger siblings, but I finished high school living with foster parents, who gave me structure and rules for the first time in my life, even though I never felt like I was their own. The couple received \$360 a month for taking me in, and I'd get \$62, which I'd use for school supplies and clothes. I mowed lawns and cleaned houses after class for extra money.

But I was a teenage girl! I needed certain things. And this was the early '80s, so I needed pink lipstick, blue eye shadow and lots of hair spray. My classmates wore Jordache and Gloria Vanderbilt jeans, which I still couldn't afford with my measly allowance from the state. I never completely fit in.

A teacher at my high school knew I was living with a foster family.

"Regina, you need to sign up for the ACTs and SATs," he said. "You're smart enough to get into college."

There were certain teachers in my life that made a big difference and who taught me that a college degree was my ticket out of poverty.

But the day I graduated from high school wasn't a celebration.

It felt like a relief, like checking one more thing off my list. And when I was up there in my cap and gown accepting my diploma, I looked into the audience, and my family wasn't there.



I went to college at SUNY New Paltz, where I avoided talking about my past.

When I started dating someone new, and the conversation turned to “tell me about your family,” I’d say my dad was a contractor and my mom a homemaker, a script based on my foster parents.

I was embarrassed — not of my foster parents. I just didn’t want anyone to know I wasn’t like them, that I was different.

Keeping my walls up made intimacy difficult, but I was fine with that. I was more comfortable being standoffish and drawing barriers than letting people know about my past.

Close girlfriends were different. I’d let them in a little more. Once I knew they were someone I could trust and wouldn’t judge me, I’d move on to my second script: that my siblings and I grew up in and out of foster care, without giving too many details. But I never used the word “homeless.”

It’s weird because my abusive childhood did teach me something valuable. All that standing up for myself and talking back to Cookie proved I could argue effectively, so I applied to law school at Seton Hall University.

When I got in, the feeling was surreal. To go from living on onion grass to studying at one of the top 100 law schools in the country was humongous. Even so, I never aspired to be a lawyer. My goal was to avoid becoming a teen mother and to get enough food for myself and my family.

After law school I was working for the private sector practicing law, when I finally earned enough money to move into my own place on the Upper East Side. It was tiny, but I didn’t care. It was proof that I wasn’t a slave to poverty. I finally felt stable.

Meanwhile, I was finding love in the city. Todd Ciaravino was a cute aide in Mayor

Giuliani’s office who I flirted with on trips to City Hall. We started dating, and I gradually told him I’d had a tough upbringing without confessing to the painful depth of it.

Eventually, I moved to a law firm and worked my way up to partner. I made friends with many other privileged people in New York, including the CEO of Nicole Miller. I bought a beautiful home near the beach on the North Fork of Long Island, a place I thought I’d never return to. But my older sisters live there, and my town is called New Suffolk, which sounded like a fresh start from the old Suffolk, where I’d suffered so much.

For 40 years, I had proved myself in my career without anyone giving me handouts or taking pity on me, because I’d managed to keep most of my terrible past a secret. But now that I had made it, I felt like I could begin to tell the truth.

My opportunity came out of the blue. A friend asked me to become an honorary chairman on the board of the Children of Bellevue, which raises money for kids who are abused.

It was like a lightning bolt. These kids were me. And telling my story might help these children so they wouldn’t have to fight to succeed like I did. When my friend asked me to give a keynote speech at an event for the program, I agreed right away — and I had a plan.

At the Time Warner Center event, overlooking Central Park, the city’s elite were assembled in their finest gowns and tuxes. As I stepped up to the podium, my heart was pounding in my ears.

I began telling a story about a little girl and her siblings who grew up homeless. How they were abused and never had enough to eat.

The wealthy New Yorkers waiting in line at the lavish tasting stations slowly quieted down. I looked into the audience and saw Camille, my nieces and nephews and my boyfriend, Todd, smiling back at me.

I gulped. And then said, “That little girl was me.”

The room went silent. Finally, after years of holding back, here I was standing on a stage revealing the truth to the world. I have never felt so vulnerable — or so relieved.

That night, the event raised more money than it ever had in its 10-year history — more than \$300,000.

That was my turning point. It encouraged me to keep opening up, so I started writing a book about my past. In it, I reveal the sexual abuse, the violence, the worst stories of my poverty — and how my scrappy little band of siblings survived on our own.

I showed the drafts to Todd and felt conscious that I was really telling him about my past for the first time. He took it in stride and accepted it, just as I hoped he would.

My memoir, “Etched in Sand: A True Story of Five Siblings Who Survived an Unspeakable Childhood on Long Island” (\$15.99), is out today from Harper Collins, and I’m nervous to see how my colleagues, friends and other family members react.

Cookie passed away in 1999. And in 2003, I finally got proof of who my father is. He spent years denying paternity, until I won a lawsuit ordering him to take a DNA test.

I only met my dad once, years after winning the lawsuit. He told me he’d drive by the foster homes I was in and watch me. He was usually living only a few miles away in these nice homes with his other family. And although I don’t remain in contact with him, I have a relationship with his daughter, who told me he ordered a copy of my book.

In his heart, how will he digest all of this? He knew I was living in foster care and he didn’t take responsibility. But I don’t feel resentful because I need to get on with my life.

As far as my future, anything is possible. I ran for State Senate in 2010, and although I was disqualified for residency reasons, I hope to do more in politics. My experience growing up with Cookie has made me a more compassionate person. I spoil my two dogs and cat rotten, and I’m very involved in the lives of my nieces and nephews. I’m now 46, and I’m no longer running from my past. I’m embracing it.



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# **EXHIBIT 6**

# Children First

Our mission is to respond to the complex needs of abused and neglected children, and those involved in their care, by providing best practice counseling, legal, and educational services. Through research, communications and training initiatives, we work to expand these programs to prevent abuse and help more children heal.



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### *Executive Director*

Mary L. Pulido, Ph.D.

## When Parents Are Desperate: Neighbors Can Mean the Difference Between Life and Death for a Baby

**By Mary L. Pulido, Ph.D.**

Executive Director, The New York Society for the Prevention of Cruelty to Children

Three infants in New York City have died in the past few months after being thrown out of windows, allegedly by their mothers. Rizwan died in August, 2015, a newborn baby girl (unnamed) in September 2015, and six-month-old Janilah died in October. For those of us who dedicate our lives to protecting children, it makes you question whether or not we are doing enough to reach parents who are at the end of their rope. Obviously, we are not.

We all must get involved if we think a child is at risk. Back in the 1990s, I was involved in a "Neighbors Helping Neighbors" campaign. Its goal was to encourage citizens in the Bronx to reach out to those who lived nearby if they suspected they were stressed, struggling and in danger of harming their children. By offering support and becoming familiar with available resources, we hoped child abuse and neglect would be prevented. We need to encourage this type of involvement now.

Many adults are still reluctant to report their suspicions when they think a child may be at risk. How many times do we hear on the news, "I knew something was wrong, but I never thought she'd hurt the baby," or, "They are always fighting in that house, but you are afraid to get involved. You don't know if they could turn on you."

So, children are left in danger. I am encouraging you to take action. When a child is brought to the attention of the authorities, the child and the parent(s) can get the help that they need to prevent abuse and strengthen their family. It can mean the difference between life and death for newborns and children under the age of four, when most fatalities occur.

Please learn the basic steps to help a baby or child at risk.

First of all, if you see a child being abused, or hear a child screaming in pain, call 911. If you have suspicions that a child is at risk, every state has a hotline that you can call to make a report. They will ask for your name and number, but you can choose to remain anonymous. Even if you are not certain about all the specifics, make the call. It's then up to the investigators to follow through. The National Child Abuse Hot-line is 1-800-4 A CHILD or 1-800-422-4253.

There are also resources that could help desperate parents: Safe Havens, Crisis Nurseries and Parent Crisis Helplines.

CONTINUED ON PAGE 5

## Letter from the Executive Director



Dear Friends:

As many of you know, 2015 marks The NYSPCC's 140th Anniversary –that's 140 years of protecting and healing children and families from trauma, abuse and neglect. And with your support and generosity, it was an exemplary year! As of September 30th, The NYSPCC has already served over 4,000 children, parents, caregivers, and professionals.

Notably, The NYSPCC continued to provide the Safe Touches child sexual abuse prevention program to children in kindergarten through the third grade throughout the Bronx public school system. During the 2014-2015 school year, in collaboration with The Horace Mann School, The NYSPCC brought the program to 13 elementary schools, reaching 2,720 children. Two articles about Safe Touches were published in the *American Journal of Public Health* and *The APSAC Advisor*, the American Professional Society on the Abuse of Children's quarterly news journal. The articles highlighted the results of a National Institutes of Health-funded research study, which showed that children who participated in Safe Touches showed statistically significant gains in knowledge of body safety concepts, as compared to children who did not participate.

The NYSPCC will continue to share our innovative and effective program models with other child welfare advocates, professionals and organizations, helping them to improve programs for vulnerable children nationwide. In fact, The NYSPCC's new strategic plan (2015-2019) includes increasing research efforts to further contribute to the child protection field, and ramping up our advocacy activities through public awareness campaigns and meetings with legislators. I look forward to updating you about our progress.

I also hope to see you in 2016, at one of our upcoming events. Mark your calendars! Our Family Benefit, featuring the Broadway musical, *School of Rock*, will be held on Sunday, February 28, 2016, and our Spring Luncheon at The Pierre Hotel will be on Tuesday, April 12th. To stay informed of these events, and more, please be sure to follow us on [Facebook](#) and [Twitter](#), and join our e-mail list.

As the holiday season is a time to spread joy and give back, please consider us when making your year-end donations. From all of us at The NYSPCC, we send our deepest gratitude and warmest wishes for a peaceful holiday season.

Warm regards,

Mary L. Pulido, Ph.D.  
Executive Director



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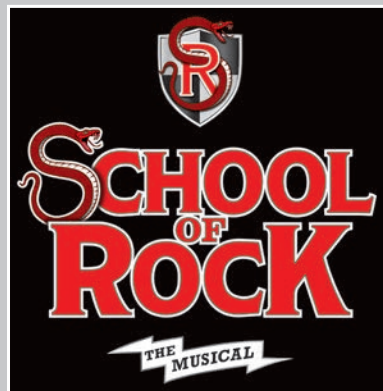
## A Warm Welcome To Our Newest Board Member



After five years of serving The NYSPCC as an advocate and supporter, Penny Grant, MD, was elected to the Board of Directors on June 16, 2015. Dr. Grant is a former Pediatrician, who specialized in child abuse at Montefiore Medical Center. As a physician, Dr. Grant focused on addressing the needs of children living in dangerous drug environments, working closely with the National Alliance of Drug Endangered Children. In the early 2000's, Dr. Grant was a powerful voice for children, having extensively published and presented her research on the negative effects of parental drug abuse on children and the steps needed to protect them. In addition to The NYSPCC, she has supported the Association to Benefit Children, The Humane Society of New York, The American Cancer Society, The New York Mission Society, and the French Heritage Society. We are honored that Dr. Grant has designated The NYSPCC as her primary charity.

## Holiday Gift Idea!

Join us for our 2016 Family Benefit featuring the new Broadway show



**Sunday, February 28, 2016**  
Pre-Show Lunch Reception: 1:00pm  
Matinee Performance: 3:00pm

### Event Co-chairs:

Chani Churchill	Tania Higgins
Eliza Dyson	Tatiana Perkin
Peter W. Espy	Whitney Topping
Nelli Voorheis	

For more information,  
contact 212.920.7341 or  
[SoigneBySabrina@gmail.com](mailto:SoigneBySabrina@gmail.com)

\*Limited Tickets Available\*

APRIL  
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The NYSPCC's  
**Spring Luncheon**

**Tuesday, April 12th, 2016**  
The Pierre Hotel

**For reservations and more information:**

📞 212.233.5500 ext. 216

✉ [info@nyspcc.org](mailto:info@nyspcc.org)



## Special Events

### Spring Luncheon

On April 21, 2015, The NYSPCC hosted the annual Spring Luncheon at The Pierre Hotel, benefitting the Trauma Recovery Program. The event, co-chaired by Elizabeth Mayhew and Valesca Guerrand-Hermès, featured a conversation with Regina Calcaterra, New York Times best-selling author of *Etched in Sand*. The memoir tells the story of Regina and her four siblings' abusive childhood on Long Island in the shadows of Manhattan and the Hamptons – and her amazing story of survival. A big thanks to the Vice-Chairs, the Board of Directors, and everyone who helped to make the afternoon a wonderful success raising essential funds for the agency.

Photography: Patrick McMullan



### Shopping Online This Holiday Season?

Choose The New York Society for the Prevention of Cruelty to Children at **AmazonSmile**, and support us every time you shop!





## The NYSPCC Out and About

### Junior Committee Event

On May 6, 2015, The NYSPCC's dedicated Junior Committee hosted its annual Spring Benefit at Tao Downtown. The Benefit featured signature cocktails, delicious food, and a silent auction. The Benefit was an immense success, raising essential funds for The NYSPCC's programs. We are deeply grateful for Alexandra Papanicolaou Shaheen's leadership and the Committee's continued enthusiasm and dedication.

Photography: Annie Watt



Donna Simonelli, Kate Hemphill, Julia Moore



Jennifer Lee, Xanthe Ranger, Bettina Bennett



Tatiana Perkin, Thorne Perkin, Alexandra Papanicolaou Shaheen

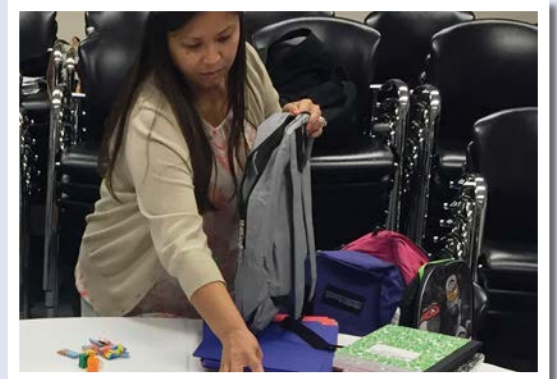
Our dedicated friends and supporters were out in full force this year, helping The NYSPCC to raise funds and awareness!



NYSPCC Board Director, Dr. Penny Grant, hosted a cocktail party and shopping event on August 8th at Space Sixteen in Southampton. A portion of the evening's sales was donated to The NYSPCC.



On Thursday, September 10th, Michele Smith hosted a shopping and cocktail party at the Milly NYC Boutique. Special thanks to Board Director Tatiana Perkin for arranging the event. Co-hosts included Board Directors Valesca Guerrand-Hermès and Elizabeth Mayhew, as well as Kimberly Guilfoyle and Kelly Rutherford.



Thanks to Board Director Peter W. Espy, The NYSPCC was the featured charity for a recent Credit Suisse Blue Jean Friday fundraiser. Company employees generously donated and used the funds raised to purchase backpacks and school supplies for the low-income children The NYSPCC serves. They held a fun backpack-stuffing event on September 18th.

## Program Spotlight:

### Healing Through Play

The NYSPCC's Trauma Recovery Program provides a safe, supportive and nurturing environment for children, who have experienced abuse and neglect or have witnessed family violence. The Program's therapeutic services are designed to enable children to understand and manage their emotions, learn coping techniques and move forward to lead happy, healthy lives.

With a strong foundation in Cognitive-Behavioral Therapy, The NYSPCC's clinicians are enhancing the Trauma Recovery Program by incorporating more Play Therapy, which can be very effective in

helping children identify and communicate their emotions, process traumatic events, and develop coping skills. The NYSPCC has been consulting with Eliana Gil, PhD, a well-known play and art therapist. Dr. Gil, a national expert, has worked in the field of child abuse prevention and treatment since 1973. She is supporting the on-going integration of play-based and art-based techniques into our interventions.

Dr. Gil's training and support will enable The NYSPCC's already-experienced clinicians to increase the frequency and quality of the Play Therapy techniques. Children who participate in the Trauma Recovery Pro-



gram will receive more and higher-quality opportunities to engage in Play Therapy activities, such as sand tray therapy, the use of symbols and metaphors to process worries, and the use of other creative strategies to access emotional experiences when language fails.



### In Memoriam, Nelson Doubleday

This year, we lost our beloved friend, Nelson Doubleday. A dedicated member of the Board of Directors for over 55 years, Nelson maintained a passionate commitment to the safety and well-being of New York City's children throughout his tenure. He was unanimously elected to the Board in 1960, and became an Honorary Director in 2006. Nelson's compassion, generosity of spirit and five decade commitment to The NYSPCC were an inspiration to us all. We extend our deepest condolences to Sandra and the entire Doubleday family.

CONTINUED FROM PAGE 1

## When Parents Are Desperate: Neighbors Can Mean the Difference Between Life and Death for a Baby

Every state in the United States, has a law that allows an unharmed child to be relinquished to the proper authorities, no questions asked. It's called the "Infant Safe Haven Law." It was developed as an incentive for mothers in crisis to safely give up their child to designated locations where the babies are protected. The laws generally allow the parent to remain anonymous and to be shielded from prosecution for abandonment or neglect in exchange for bringing the baby to a safe haven. You can access the laws for each state through the Child Welfare Information Gateway. The locations that are designated Safe Havens vary by state, but they include: fire stations, police stations, hospitals, emergency medical providers and churches. These providers then contact child protective services to let them know the infant has been relinquished.

Crisis Nurseries are another option for parents at their wits' end, or who are in an emergency situation whereby they can't care for their child(ren). These programs were developed to prevent child abuse and neglect. Most offer free 24/7 crisis nursery care for children up to age 12, when parents are over-stressed, need a break, or have an emergency arise. Usually, you can leave a child for up to 72 hours at a time. The staff at these programs work with the parent(s) to develop a safety plan for the children's return to home.

A partial list of crisis nurseries can be found at this link: [http://people.wku.edu/darbi.haynes-lawrence/crisis\\_nursery.htm](http://people.wku.edu/darbi.haynes-lawrence/crisis_nursery.htm). The best way to identify programs in your area is to google "crisis nursery" along with the name of your state.

Parent Crisis Helplines can help too. First, they can put the parent in touch with one of the crisis nurseries or explain the Safe Haven law, if it applies. They can also provide a supportive outlet for a stressed out parent to discuss the difficulties that they are having in parenting their children.

In New York, I regularly refer parents to the Prevent Child Abuse New York's Parent Helpline at 1-800-Children, a confidential helpline where parents can get information and referrals to places in their community that can help.

So, we will never know if these services would have helped the parents and babies that I referenced earlier, but they could help others. Part of the problem is that parents, who need these services, don't know about them. There is very little funding available to advertise Safe Haven or Crisis Nursery availability.

Please share this article with parents you know. You may be helping a desperate parent do the right thing when they are under too much stress. You may also be saving a child's life.



# Help Us Keep Children Safe!



*Safe Touches: Personal Safety Training for Children* is a child sexual abuse prevention program that empowers children with the knowledge they need to protect themselves from sexual abuse and to seek help if they ever feel unsafe.

Since 2007, The NYSPCC has been bringing *Safe Touches* to children in Kindergarten through 3rd grade, in NYC schools. These children, ages 5-9, are in the highest-risk age group for child sexual abuse—so it is a critical time period to teach them about the privacy of their bodies.

In 2014, The NYSPCC provided *Safe Touches* education to 2,720 children in 13 Bronx public schools, and your support can help us reach even more.

## Please consider making a gift at one of the following levels:

- **\$500** provides one classroom with a *Safe Touches* workshop.
- **\$250** provides one *Safe Touches* workshop adapted for parents.
- **\$100** provides 100 children with a free copy of the activity book, *Keeping My Body Safe!*
- **\$ \_\_\_\_\_** Other amount.

**CLICK TO  
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## Special Thanks

We are grateful to the following supporters who have made Annual Fund gifts of \$500 or more from March through October 2015, to help support our work with NYC's children:

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## Support Our Holiday Toy Drive

The NYSPCC is working to ensure that every child in our programs receives a gift this holiday season.

You can help us bring smiles to each and every one of their beautiful faces. We are seeking gifts for approximately 200 children. The NYSPCC serves boys and girls, ranging from six months to 18 years old. We request new toys for children and gift cards for teens. Please call (212) 233-5500, ext 220 or email [info@nyspcc.org](mailto:info@nyspcc.org) to join us in this important effort!



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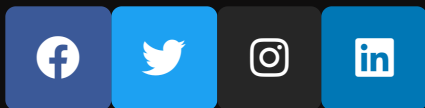
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# **EXHIBIT 8**



## Contact

[www.linkedin.com/in/regina-calcaterra](https://www.linkedin.com/in/regina-calcaterra) (LinkedIn)  
[calcaterrapollack.com/](https://calcaterrapollack.com/) (Company)  
[reginacalcaterra.com/](https://reginacalcaterra.com/) (Personal)

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Champion of Civil Rights & Social Justice 2018

## Publications

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Etched in Sand - A True Story of Five Siblings Who Survived an Unspeakable Childhood on Long Island

# Regina Calcaterra

Calcaterra Pollack LLP  
New York City Metropolitan Area

## Summary

Represents institutional investors, municipalities, public authorities, companies and individuals in complex federal and state litigation including class actions. Co-Founding Partner of 100% women owned law firm. Experienced government executive. New York Times best selling author. Crain's NY 2021 Notable Women in Law. National Law Journal 2020 Trailblazer Award. Lawdragon 2020 Top 500 Plaintiff's Financial Attorneys.

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## Experience

Calcaterra Pollack LLP  
Partner  
April 2020 - Present (1 year 2 months)  
New York, United States

Calcaterra Pollack LLP is a women-owned firm specializing in class actions, consumer protection, civil rights, municipal representation, and commercial litigation. Leveraging over five decades of collective experience representing pension funds, institutional investors, governmental agencies, businesses, and individuals in complex federal and state litigation, our innovative and collaborative approach is always focused on achieving success for our clients.

Wolf Haldenstein  
Partner  
2016 - April 2020 (4 years)  
New York, NY

Represent institutional investors such as public pension funds, Taft-Hartley Funds and health and welfare benefit funds in complex federal litigation including securities and antitrust litigation. Also, represent individuals subject to childhood sexual assaults, product liability that leads to wrongful death and federal civil rights litigation. Direct the firm's national business development and client maintenance initiatives.

State of New York

4 years

Deputy General Counsel, NYS Insurance Fund

2014 - 2016 (2 years)

New York, NY

Provided advice and counsel on critical executive initiatives for state's largest provider of workers' compensation insurance. Assisted in ensuring fund maintains competitiveness with larger private market by providing counsel on the development of new products and processes while ensuring compliance with all applicable statutes and regulations. Worked alongside executives and strategic business units to provide counsel on legal risk and strategic partnership initiatives and agreements. Ensured compliance with federal and state technology and privacy laws. Drafted and negotiate complex contracts. Monitor and manage outside counsel.

Executive Director, NYS Commission to Investigate Public Corruption

2013 - 2014 (1 year)

New York, NY

Managed the development of a highly scrutinized report focused on addressing systemic public corruption that was supported by detailed investigatory findings of the Commission. Recommendations were accepted and integrated into statute including strengthening the state penal law to better allow district attorneys to prosecute bribery; enhancing all sentences for offenses related to public corruption; barring those convicted of public corruption from doing business with or working for state and local government; requiring heightened disclosure of outside income for state elected officials; strengthening the state's campaign finance laws to require full donor disclosure for certain organizations; appointing and funding a NYS Board of Elections independent enforcement counsel and compliance unit. Managed staff, human resources, documents management and public hearings.

Executive Director, NYS Commission on Utility Storm Preparation & Response

2012 - 2013 (1 year)

New York, NY

Investigated the storm response, preparation, and management of New York's power utility companies. Investigations included holding public hearings, issuing of subpoenas and oversight of related discovery and depositions. Managed a staff of energy policy experts and litigators while working under the guidance of ten commissioners. Within six months, drafted and submitted two reports to the Governor that identified options for restructuring the Long



Island Power Authority (LIPA); disclosed LIPA's financial irregularities and lack of oversight and accountability; put forth recommendations on strengthening the regulatory oversight of the NYS Public Service Commission to substantially improve emergency preparedness and response for all utilities; and provided policy recommendations on infrastructure investment, energy efficiency programs and consumer representation before the state's utility regulatory body. Report recommendations were implemented into New York's utility regulatory scheme and statutes.

## County of Suffolk

Chief Deputy County Executive

2012 - 2012 (less than a year)

Hauppauge, NY

Administered day-to-day operations of a 9,500-employee workforce. Managed the structuring and implementation of a \$2.7 billion annual budget that serves a county of 1.6 million residents. Assisted the County Executive in reducing the county's \$530 million deficit to \$140 million in nine months through employee concessions, vendor outlay reductions, streamlining and restructuring government services and agencies, and working closely with the NYS Governor and Legislature to obtain financial assistance and the passage of laws that generated revenue directed towards the County. Met with rating agencies to ensure bond rating was not significantly downgraded as a result of deficit discovery and implemented deficit mitigation plan. Assisted in management of Hurricane Sandy storm preparation and recovery for the County of Suffolk that included coordinating federal, state and local resources for a county of 1.6 million.

## Barrack, Rodos & Bacine

Partner

2004 - 2012 (8 years)

New York, NY

Founded and managed New York office of highly ranked securities litigation firm. Represented large institutional investors including US and European public pension funds and labor pension funds when they suffered losses as a result of complex securities and auditing fraud. Such cases included, In re WorldCom Securities Litigation, In re Merrill Lynch Securities Litigation and In re McKesson Securities Litigation. Managed staff of attorneys and paralegals on multi-billion fraud recovery. Worked alongside forensic auditors to determine legal strategy and decipher financial malfeasance. Lectured on securities litigation, SEC regulatory matters and corporate governance.

Responsible for developing and maintaining firms US and European pension fund client base. Developed, implemented and managed firm wide initiatives related to improving client services.

## New York City Employees' Retirement System

Deputy General Counsel

2002 - 2004 (2 years)

Brooklyn, NY

Deputy General Counsel to \$38 billion pension fund. Provided advice and counsel to the fund's Board of Trustees and executive management team on investment and defined benefit related matters for a fund that serves 500,000 qualified employees and retirees, board governance matters, across business units on information privacy and security, restrictions on use of data transmitted electronically, general electronic storage, document retention, FOIL and employment matters. Analyzed, monitored, tracked and implemented relevant federal, state and city legislation. Litigated employment matters before the city's administrative tribunal. Drafted and negotiated contracts with outside vendors and ensured agency compliance with relevant procurement rules.

---

## Education

Seton Hall University School of Law

Juris Doctor (J.D.) · (1992 - 1996)

SUNY New Paltz

Bachelor's Degree, Political Science · (1986 - 1988)

# **EXHIBIT 9**



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# Investigations

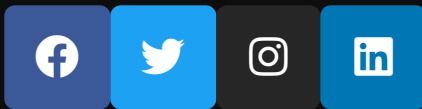
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When a crisis occurs, in the public or private sector, there is often a need for an independent investigation and related resolutions are often required. Calcaterra Pollack LLP's investigations team includes former gubernatorially-appointed attorneys and an assistant district attorney, one of which served as Executive Director of two statewide investigatory commissions with subpoena power. Both statewide investigative commissions were formed in response to crises and required the issuing of subpoenas, document review, witness inquiries, and public hearings. Also required and produced were substantive reports on the findings and related solutions, most of which were implemented into new statutory and regulatory schemes. These efforts ultimately led to the improved provision of public and private sector services.

From devising an investigation plan to the production of a final report of findings, attorneys at the firm bring their experience to conduct investigations from start to finish, on a myriad of legal issues.

# CALCATERRA POLLACK LLP

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# **EXHIBIT 10**





calcaterra pollack  
experience. integrity. leadership.



# Regina Calcaterra

Partner



Vcard



**CRAIN'S** NEW YORK BUSINESS 2021

**NOTABLE WOMEN IN LAW**



2020

THE NATIONAL LAW JOURNAL

# TRAILBLAZERS

ELITE BOUTIQUE

# 500 LEADING PLAINTIFF FINANCIAL LAWYERS

# LAWDRAGON

---

## 2020

## About Regina

Regina Calcaterra is a co-founding partner of Calcaterra Pollack LLP. Regina specializes in complex federal and state litigation representing public entities, labor health and welfare funds, businesses, and individuals. Prior to founding the Firm, Regina was a partner at securities and consumer class action litigation firms for twelve years. She is also a *New York Times* best-selling

author.

Regina also brings a wealth of experience to the Firm from a series of senior executive positions she held in public service, including:

- Executive Director to two of New York State Governor Andrew Cuomo's statewide investigatory commissions
- Chief Deputy to Suffolk County Executive Steven Bellone
- Deputy General Counsel to the New York State Insurance Fund
- Deputy General Counsel to the New York City Employees' Retirement System

Regina is admitted to practice in the State of New York, the Commonwealth of Pennsylvania, the Commonwealth of Kentucky, and the United States District Courts of the Southern, Eastern, and Northern Districts of New York.

## Representative Matters

- Successfully represented a large metropolitan area public authority and its affiliates in a national antitrust opt-out suit brought against global credit card companies that allegedly colluded and rigged the interchange fee for all merchants.
- Represents municipal entities and businesses in a variety of complex federal and state litigation claims and defenses.
- Represents public pension and employee benefit funds operated by North America's largest public transportation authority, seeking damages sustained by investors in the wake of the collapse of a private alternative investment fund concentrated on short and long index options trades.
- Represents a large suburban county in the federal antitrust class action

multi-district litigation against generic drug manufacturers for colluding to increase drug prices.

- Represents several of the largest New York City labor health and welfare benefit funds in the federal class action multi-district litigation against opioid manufacturers and distributors seeking recoveries arising from the opiate crises.
- Co-Lead Counsel representing eight families who lost their infants in the Rock 'n Play Sleeper against Mattel, Inc. and Fisher-Price, Inc.
- Represents a privately held company on complex state litigation related to contracts, affairs related to corporate officers, directors and shareholders and financial transactions.
- Executive Committee Member representing institutional investors in a federal antitrust class action seeking recovery from over nine banks who allegedly participated in bid-rigging and market manipulation of the Mexican Government Bond market.
- Represents survivors of childhood sexual assault pursuing justice via New York's Child Victims Act.
- Served on the federal securities class action co-lead counsel teams representing: the New York State Common Retirement Fund, recovering over \$6.2 billion in *In re WorldCom Securities Litigation* and over \$2.1 billion in *In re McKesson Securities Litigation*; and the Ohio Teachers Pension Fund, recovering over \$250 million against Merrill Lynch regarding its role related to mortgage-backed securities contributing to the 2008 recession.

## Previous Executive Public Sector Experience

- Appointed by New York State's Governor Andrew Cuomo as Executive Director to two statewide commissions, one of which investigated public corruption and another which investigated publicly and privately

public corruption and another which investigated publicly and privately owned utilities to determine their storm preparedness. Findings resulted in statewide adoption of new legislation strengthening New

York State's penal law and campaign finance rules and enhancement of regulatory oversight of the New York State Board of Elections, in addition to the creation of a new statutory and regulatory regime designed to ensure a reinforced and storm-prepared power grid and greater accountability.

- Served as Chief Deputy County Executive to the Suffolk County Executive Steven Bellone. Assisted in reducing a financially challenged county's deficit by several hundred million dollars through vendor outlay reductions, streamlining and restructuring of government services, and obtaining state authority to implement revenue-generating initiatives. Managed the emergency response to and immediate recovery from ramifications of Superstorm Sandy in a county of over 1.5 million residents.
- Provided general counsel benefit administration to the New York City Employees' Retirement System, a \$38 billion fund.

## Education

Seton Hall University School of Law (J.D., 1996)

State University of New York at New Paltz (B.A., 1988)

## Honors

Within the first year of launching Calcaterra Pollack LLP, Regina and her partner Janine Pollack were awarded the [National Law Journal's 2020 Trailblazer Award](#) for an Elite Boutique Firm. Regina was recognized in [Crain's New York Business 2021 Notable Women in Law](#), and was also selected to the [2020 Louderman 500 Leading Plaintiff Financial Lawyers in America](#)

the [2020 Lawdragon 500 Leading Plaintiff Financial Lawyers in America](#).

Regina has received numerous awards for her advocacy work, including the Champion of Civil Rights & Social Justice Award, *City & State New York*; Woman of Substance Award, Seton Hall Law School; Lifetime Achievement Award, Primi-Dieci Society and the Italy-America Chamber of Commerce Award; Speak Out for a Child Award, CASA-NYC; and the Geraldine Ferraro Award of Courage & Grace.

## Professional Affiliations

Regina is a member of various institutional investor associations such as the National Association of Public Pension Attorneys and the American Bar Association's Committee on Institutional Investors.

## Publications

### [Child Safety and Product Safety Disclosures: A Look at Section 6\(b\)](#)

Regina Calcaterra, Janine Pollack and Anjori Mitra

*New York Law Journal*. December 11, 2020

### [Dreamers Bring Important Perspective to Legal Industry](#)

Regina Calcaterra, Isidora Echeverria and Montserrat Lopez

*Expert Analysis – Opinion, Law 360*. July 17, 2020

Regina is a *New York Times* bestselling author. Her memoir, *Etched in Sand, A True Story of Five Siblings Who Survived an Unspeakable Childhood on Long Island* (HarperCollins, 2013) has been incorporated into college and high school curricula throughout the United States. Regina is also co-author of a sequel, *Girl Unbroken. A Sister's Harrowing Journey from the Streets of Long Island to the*

an extraordinary career spanning nearly four decades, from the streets of Long Island to the Farms of Idaho (HarperCollins, 2016).

## News

[Lawyer Limelight: Regina Calcaterra](#), *Lawdragon*, Allison Preece, March 8, 2021.

[Amid the Pandemic, 2 Women Launch Their Own Plaintiffs Firm](#), *New York Law Journal*, Amanda Bronstad, June 8, 2020.

[No Choice But To Succeed: An Inspirational Conversation with Regina Calcaterra, Esq.](#) *Counsel Financial*, Elizabeth DiNardo, June 18, 2020.

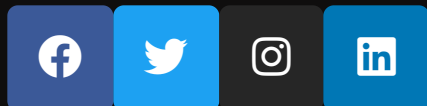
## Community Affiliations

Regina serves as the first vice chair to the SUNY New Paltz Foundation Board and a member of the Audit Committee; on the Board of Believers to You Gotta Believe, an organization that works to get older foster youth adopted; on the Advisory Board of The Felix Organization, which provides impactful opportunities and experiences to youth growing up in foster care; and on the Advisory Committee of the New York Society for the Prevention of Cruelty to Children.

## Speaking Engagements

Regina has lectured on matters related to the state of U.S. public pension funds, complex federal litigation, SEC regulations, and corporate governance. Regina also speaks nationally on issues related to foster care, specifically the plight of older foster youth and childhood poverty, abuse and homelessness.

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# **EXHIBIT 11**

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through April 30, 2021.

---

Selected Entity Name: CALCATERRA POLLACK LLP

Selected Entity Status Information

**Current Entity Name:** CALCATERRA POLLACK LLP

**DOS ID #:** 5733960

**Initial DOS Filing Date:** APRIL 01, 2020

**County:**

**Jurisdiction:** NEW YORK

**Entity Type:** DOMESTIC REGISTERED LIMITED LIABILITY PARTNERSHIP

**Current Entity Status:** ACTIVE

Selected Entity Address Information

**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**

CALCATERRA POLLACK LLP

PO BOX 257

NEW SUFFOLK, NEW YORK, 11956

**Principal Executive Office**

CALCATERRA POLLACK LLP

PO BOX 257

NEW SUFFOLK, NEW YORK, 11956

**Registered Agent**

NONE

### \*Stock Information

# of Shares	Type of Stock	\$ Value per Share
-------------	---------------	--------------------

No Information Available

\*Stock information is applicable to domestic business corporations.

### Name History

Filing Date	Name Type	Entity Name
APR 24, 2020	Actual	CALCATERRA POLLACK LLP
APR 01, 2020	Actual	CALCATERRA LAW GROUP LLP

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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# **EXHIBIT 12**



## Commonwealth of Kentucky SOLICITATION

<b>TITLE:</b> Legal Investigative Services for Kentucky Retirement System		
<b>Date Issued:</b> 9/4/20 <b>Record Date:</b> 2020-09-03	<b>Solicitation Closes</b> <b>Date:</b> 9/14/20 <b>Time:</b> 15:00	<b>Solicitation No:</b> RFP      100      2100000053

X X X

Kentucky Retirement Systems (KRS) is seeking qualified law firms capable of investigating specific investment activities conducted by the Kentucky Retirement Systems to determine if there are any improper or illegal activities on the part of the parties involved.

This document constitutes a Request for Proposals for a Personal Service Contract from qualified individuals and organizations to furnish those services as described herein for the Commonwealth of Kentucky, Kentucky Retirement Systems.

X X X

Pursuant to KRS 61.650 the officers and trustees of the Systems have the obligation to act solely in the interest of the members and beneficiaries of the three (3) qualified governmental retirement plans. The Systems seeks a qualified law firm capable of investigating and providing legal advice regarding the propriety of previous investment activities of the Kentucky Retirement Systems.

X X X

### 2.00 Scope of Work

Kentucky Retirement Systems seeks a qualified law firm capable of investigating specific investment activities conducted by the Kentucky Retirement Systems to determine if there are any improper or illegal activities on the part of the parties involved. The selected Contractor shall produce a detailed report documenting their investigation and findings. The report shall document how the Contractor arrived at their conclusion. If improper or illegal activity is uncovered, the Contractor shall also provide a complete analysis of potential legal remedies available to the System, including pros and cons of undertaking legal action, a cost/benefit analysis of such action, and any possible legal impediments to the legal action. It is expected that the investigation and report be concluded within four (4) months of the commencement of the investigation.

### **3.00 Evaluation Criteria**

The Kentucky Retirement Systems will evaluate the proposals based on the following evaluation factors:

#### **Technical Proposal – 600 Points**

##### **Experience working with qualified governmental retirement plans – 120 points**

The Vendor shall include a list of all staff who will work on this project and have experience with qualified governmental retirement plans, along with the names of each of these retirement systems. This statement shall also include a general description of the type of work performed and issues addressed for these retirement systems. If the staff of the Vendor have produced any papers, briefs, presentations or similar products that would demonstrate relevant experience for this RFP and which are publically available, or could be produced with appropriate redaction, the Vendor should provide a copy of these materials for review. For each staff person referenced, if not already included, provide a detailed narrative illustrating the staff person's qualifications and education, including but not limited to, any trainings, certifications, awards, accomplishments and any grievances or professional disciplinary actions, including bar actions or court sanctions. Please also include a current resume or curriculum vitae.

##### **Experience conducting investigations – 120 points**

The Vendor shall include a list of all staff who will work on this project and have experience conducting significant investigations. This statement shall also include a general description of the investigations and the types of issues addressed in these investigation. If the staff of the Vendor have produced any papers, briefs, presentations or similar products that would demonstrate relevant experience for this RFP and which are publically available, or could be produced with appropriate redaction, the Vendor should provide a copy of these materials for review. For each staff person referenced, if not already included, provide a detailed narrative illustrating the staff person's qualifications and education, including but not limited to, any trainings, certifications, awards, accomplishments and any grievances or professional disciplinary actions, including bar actions or court sanctions. Please also include a current resume or curriculum vitae.

X X X

### **6.00 Point of Contact**

The Agency Contact named below shall be the sole point of contact throughout the procurement process. All communications, oral and written (regular mail, express mail, electronic mail or fax), concerning this procurement shall be addressed to:

**Cassandra Weiss, Staff Assistant**  
**Kentucky Retirement Systems**  
**1260 Louisville Road**  
**Frankfort, KY 40601**  
**(502) 696-8451**  
**Cassandra.Weiss@kyret.ky.gov**

From the issue date of this RFP until a Contractor(s) is selected and the selection is announced, Offerors shall not communicate with any other Commonwealth staff concerning this RFP.

#### **9.60 Vendor Response and Public Inspection**

This RFP specifies the format, required information and general content of proposals to be submitted in response to the RFP. The Kentucky Retirement Systems shall not disclose any portions of the proposals prior to contract award to anyone outside the Kentucky Retirement Systems, representatives of the agency for whose benefit the contract is proposed, representatives of the federal government, if required, and the members of the evaluation committee. After a contract is awarded in whole or in part, the Commonwealth shall have the right to duplicate, use, or disclose all proposal data submitted by Offerors in response to this RFP as a matter of public record.

Any and all documents submitted by an Offeror in response to the RP shall be available for public inspection after contract award pursuant to the Kentucky Open Records Act, KRS 61.870 to 61.884 ("the Act"). When responding to a request to inspect records submitted in response to this RFP, the Commonwealth will not redact or withhold any information or documents unless the records sought are exempt from disclosure pursuant to KRS 61.878 or other applicable law. Similarly, no such documents shall be exempt from public disclosure, regardless of the Offeror's designation of the information contained therein as "proprietary," "confidential," or otherwise, except in cases where the requested documents (or information contained therein) would be excluded from application of the Act under KRS 61.878(1)(c).

The Commonwealth of Kentucky shall have the right to use all system ideas, or adaptations of those ideas, contained in any proposal received in response to this RFP. Selection or rejections of the proposal will not affect this right.

X X X

#### **9.95 Best Interests of the Commonwealth**

The Commonwealth will rank all proposals in the manner set forth in the Evaluation Criteria. However, the Commonwealth reserves the right to reject any or all proposals in whole or in part before, during, or after negotiation based on the best interests of the Commonwealth.

X X X

#### **CONTRACT AWARD, TERMS, AND CONDITIONS**

##### **10.10 Beginning of Work**

This Contract is not effective and binding until approved by the Secretary of the Finance and Administration Cabinet and filed with the Legislative Research Commission's Government Contract Review Committee. The Contractor shall not commence any billable work until a valid Contract has been fully executed. This Contract, including the components referenced in Section 10.20, shall represent the entire agreement between the parties. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this Contract.

This agreement is not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the Contract and until the Contract has been filed with the Legislative Research Commission, Government Contract Review Committee.

X X X

##### **10.40 Changes and Modifications to the Contract**

Pursuant to 200 KAR 5:311, no modification or change of any provision in the Contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the Commonwealth, and incorporated as a written amendment by Kentucky Retirement Systems prior to the effective date of such modification or change. Modification shall be subject to prior approval from the Secretary of the Finance and Administration Cabinet, or this authorized designee, and the LRC Government Contract Review Committee. Memoranda of Understanding, written clarification, and/or other correspondence shall not be construed as amendments to the Contract.

# **EXHIBIT 13**





## POLITICS

# Governor Cuomo May Have Corrupted His Own Anti-Corruption Commission

"It became purely a vehicle for the governor to get legislation. Another notch for his re-election campaign. That was it," Barbara Bartoletti, a special adviser to the commission, told *The New York Times*.

ARIT JOHN JULY 23, 2014



*This article is from the archive of our partner* **THE WIRE**.

New York Gov. Andrew Cuomo's office repeatedly interfered with the work of a commission investigating corruption in New York politics whenever the investigation got too close to groups connected to the governor, according to an investigation by *The New York Times*.



The Moreland Commission repeatedly pulled back subpoenas to companies that bought air time for the governor or donated to his campaigns, at the behest of the governor's office and a board member — the commission's executive director Regina M. Calcaterra — who worked closely with the governor's secretary, according to the paper. The governor abruptly disbanded the 18-month investigation in March, 10 months early.

Several members of the commission said they felt limited by the governor's office and Calcaterra, who at one point demanded to see all subpoena requests before they were sent out. “We were created with all this fanfare and the governor was going to clean up Albany,” Barbara Bartoletti, a special adviser to the commission, told *The New York Times*. “And it became purely a vehicle for the governor to get legislation. Another notch for his re-election campaign. That was it.”

In public Cuomo said the commission had the freedom to investigate what they wanted (In August 2013 he said “Anything they want to look at, they can look at— me, the lieutenant governor, the attorney general, the comptroller, any senator, any assemblyman.”) but in a 13-page response to *The Times*, the governor's office said the commission was never independent, because he created it.



In December the commission released a preliminary report stating that it was investigating pay-to-play schemes, lawmakers using campaign funds to support girlfriends, and some actions that were "perfectly legal yet profoundly wrong." The investigation ended before charges could be filed, and instead the state legislature passed limp reforms that barely touched the surface of the state's corruption.

Both voters and officials have been skeptical, at best, of the way the Moreland Commission was handled and shut down. An April poll found that 61 percent of voters disapproved of the commission being shut down, while government watchdog groups and lawmakers were "disheartened," as Manhattan Democrat Sen. Brad Hoylman put it, according to *The Times*. Manhattan U.S. Attorney General Preet Bahara's office is currently investigating the commission.



Cuomo's political opponents were also quick to jump on the report. Zephyr Teachout, a Fordham law professor challenging Cuomo for the Democratic nomination for governor, said Cuomo should resign, according to *Capital New York*. "The governor corrupted his own anti-corruption commission. It shows the arrogance of power here," Republican State Chairman Ed Cox said.

*This article is from the archive of our partner The Wire.*



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**ARIT JOHN** *is a former politics writer for The Wire.*

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# **EXHIBIT 14**

SECTIONS

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BILL & MELINDA GATES ANNOUNCE THEY'RE DIVORCING

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Bill and Melinda Gates announce they're divorcing



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# Members of Gov. Cuomo's anti-corruption commission detail frustrating environment curbed by administration

By KENNETH LOVETT  
NEW YORK DAILY NEWS | APR 12, 2014





Some members of Gov. Cuomo's short-lived anti-corruption commission have told the Daily News that their time on the commission was riddled with interference from Cuomo's administration. (Seth Wenig/AP)

ALBANY - Some members of Gov. Cuomo's short-lived anti-corruption commission are angry and bitter.

The Daily News spoke to close to 10 sources tied to the soon-to-be-defunct panel, and a number of them denounced what they said was interference from Cuomo's office.

Others expressed frustration that Cuomo pulled the plug before the panel could finish its work.

All asked for anonymity for fear of blowback from the governor.

One commission member was so angry that he wouldn't take a call from The News, signaling through a secretary that he was afraid of what he might say.

Another source called it the worst time in her professional career.

"It was an exercise in frustration," said a third source.

After forming the 25-member commission with great fanfare in July, Cuomo recently announced he was disbanding it after lawmakers agreed to an ethics reform package as part of the new state budget.

Albany thought that would be that.





Manhattan U.S. Attorney Preet Bharara asked the commission to turn over its files so that he could see whether further investigations need to be pursued. (Mark Lennihan/AP)



But last week, in a move that could do political damage to the governor in an election year, Manhattan U.S. Attorney Preet Bharara asked the commission to turn over its files so that he could see whether further investigations need to be pursued.

He also delivered a swipe at Cuomo.

"Nine months may be the proper and natural gestation period for a child, but in our experience not the amount of time necessary for a public corruption prosecution to mature," Bharara said.

The commission formed to root out corruption in state government was often divided, with the investigators on one side and Cuomo's \$175,000-a-year executive director Regina Calcaterra on the other.

"There was no trust there," said the first commission source. "It was pretty widely understood that anything Regina Calcaterra knew, it would immediately be on the desks of" top Cuomo aides Larry Schwartz and Mylan Denerstein.

Denerstein was described as "measured" but Schwartz as aggressive. "I heard the word 'bully' mentioned more than once," said the source.

The panel's zeal to investigate was repeatedly curbed by the governor's office, the source said.

The commission wanted to subpoena prior ethics complaints from its ineffectual predecessor, the Legislative Ethics Commission, but was ordered not to, sources said.



The commission formed to root out corruption in state government was often divided, with the investigators on one side and Gov. Cuomo's \$175,000-a-year executive director Regina Calcaterra on the other. (Mike Groll/AP)

And as they probed how lawmakers spend their campaign money, commissioners wanted to send subpoenas to vendors like hotels or florists to see what was purchased.

The subpoenas never went out, the sources said.

The frustration mounted when subpoenas were held back from entities with ties to Cuomo, including the powerful Real Estate Board of New York.

Another subpoena earmarked for the state Democratic Party was initially killed. And one that had actually been served on the ad firm the party used to promote Cuomo's agenda was rescinded after Cuomo aides erupted in fury, the sources said.

After the Daily News detailed the problems in a series of stories in September, the commissioners met behind closed doors, with some threatening to resign and others vowing to go public if the pressure from Cuomo's office didn't stop, sources said.

The commission co-chairs, Kathleen Rice, William Fitzpatrick and Milton Williams, relayed the panel's frustration to the governor. The interference eased.

Fitzpatrick acknowledged "input" on some decisions from Team Cuomo, but denied the commission was ordered to withhold subpoenas.

At least two other commission members back him up. "I think a lot of times (Cuomo aides) were trying to be helpful," said one.

The commission in December put out an explosive preliminary report.

Then things changed.

A contract with a company that provides advanced data analytics was allowed to expire just as the probers said they were getting a better understanding on how to use it.

Rice resigned to run for Congress and wasn't replaced. And chief investigator Danya Perry, a former assistant U.S. attorney, quit too, fed up with having her hands tied by Cuomo aides, according to those close to her.

Perry when contacted at the time had no comment but hours later she released a statement denying frustration with the Cuomo administration.

The governor -- recognizing that the commission had become a liability--wanted to find a way out, insiders say. He negotiated ethics reforms in the new state budget in exchange for getting rid of the panel.

"The commission was always a temporary commission by design," Cuomo said Thursday.

A number of his anti-corruption panel commissioners praised the ethics package. "The agreement reached by the governor and legislature is a major step forward in the effort to clean up Albany," said commissioner Tom Zugibe.

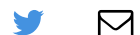
Others who don't see it that way said Friday that they're pleased that at least their work lives on through Bharara.

"Hopefully they can pick up in earnest where the commission left off," one source said.

Topics: [moreland commission](#)

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## Kenneth Lovett



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Ken Lovett has been with the Daily News' Albany bureau chief since 2008. During his two decades as a reporter at the state Capitol, he has covered five governors.

# **EXHIBIT 15**

# CUOMO DEMONS EXPOSED: Moreland Commission "hobbled" by governor's interference

By dskriloff on July 24, 2014 · 0 Comments

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BY MICHAEL RICONDA



EVER SINCE ITS ABRUPT END IN APRIL, THE MORELAND COMMISSION ROSE EYEBROWS NOT ONLY WITH ITS INVESTIGATIONS OF HIGH-PROFILE ALBANY CORRUPTION, BUT ALSO ITS SUDDEN DEMISE, THE PRODUCT OF SIGNIFICANT INTERFERENCE FROM THE GOVERNOR HIMSELF.

Ever since its abrupt end in April, the Moreland Commission rose eyebrows not only with its investigations of high-profile Albany corruption, but also its sudden demise, the product of significant interference from the governor himself.

Governor Andrew Cuomo with friend Supervisor Christopher St. Lawrence of Ramapo. Recently, both politicians have come under the spotlight of federal investigators, however, it is unclear if either will face charges

A recent New York Times expose written by Susanne Craig, William K. Rashbaum and Thomas Kaplan highlights just how deep such interference reached as Cuomo's aides quashed investigations and shielded

officials and groups from the prying eyes of the 25-member commission. According to the Times, investigations into improper use of campaign funds, contributions and other financial improprieties often led nowhere due to political obstruction from the upper echelons of Cuomo's Administration.

The Commission was made up of some of the state's leading prosecutors, attorneys and professors. On July 2, 2013, those authorities were given free reign to conduct investigations into Albany officials' wrongdoing, even if that meant investigating the fundraising of Cuomo himself.

The reality of the situation turned out to be much different.

When subpoenas were sought for financial backers of Governor Cuomo, Moreland Commission

Executive Director Regina M. Calcaterra attempted to shut them down. When that did not work, word came directly from the Governor's

Office not to follow any trail of clues which led to the governor.

KILLER AL — Just how money hungry is D'Amato in his post-elected career? So hungry that D'Amato once lobbied against the creation of a cardiac unit at Good Samaritan Hospital in Suffern on behalf of New Jersey business interests. Bottom line: D'Amato sought to deny Rocklanders access to life saving medical in return for cold hard cash.

The Commission eventually grew divided between Cuomo loyalists and genuine investigators, especially when many began to suspect Calcaterra was monitoring the Commission's activities and reporting them back to Secretary to the Governor Larry Schwartz. Eventually, the co-chairs of the Commission informed Chief Investigator E. Danya Perry to only notify Calcaterra of subpoenas just as they were about to be served, limiting her participation and, by extension, Schwartz's interference.

The Commission only deteriorated from there. William J. Fitzpatrick, the Onondaga County District Attorney who co-chaired the Commission with Nassau County DA Kathleen M. Rice and former state and federal prosecutor Milton L. Williams, were eventually told by Schwartz that the Commission could only investigate the Legislature, a contradiction of prior statements which suggested the Commission had free reign.

With a new strategy of subpoenaing law firms and partners associated with legislators, the Commission continued to send out subpoenas, though it also continued to face resistance. Legislators predictably balked and attempted to legally stall investigators while Cuomo began to push for an ethics reform package, one which eventually passed in a substantially weakened form.

Among the most notable of the obstructions was a subpoena to Buying Time, a media-buying firm which had received \$4 million from the Democratic Party and another \$20 million from Cuomo. Though the Commission did not specifically target Cuomo's payments, Fitzpatrick was still forced to rescind the subpoena, only managing to submit one to Buying Time in October 2013 after Cuomo began being cast as a hindrance to investigations in the press.

The final straw came soon after the submission of the Commission's preliminary report in December 2013. Though Perry wished to include a number of improprieties and recommendations for reform, most of these items were cut out of the final report. Rice and Perry resigned early in 2014 and though the commission did produce 20 possible cases for prosecution against state legislators, it ultimately accomplished much less than its lofty goals before suffering an untimely death.

What the New York Times ultimately suggested was that the Moreland Commission was meant to function as political pressure on Cuomo's adversaries, not serious law enforcement action. In the end, Cuomo managed some ethics reforms and referred to the Commission as a success, but observers might see far more if they pay attention to the Commission's work instead of the others' interpretation.

Though Cuomo initially characterized the Commission as independent, by the end of this misadventure, the governor was defending his participation by arguing it was his commission all along and he could do with it what he pleased. In a twisted sense, this might be the truest statement Cuomo made about the whole endeavor.

After infamously ranting to reporters this spring that the commission was "his" commission and staffed by "his" appointees and thus it was impossible he could interfere with it, as it was "his," Cuomo doubled down when questioned again by the media and by federal prosecutors looking into the commission's findings



and its conduct. Cuomo said, “A commission appointed by and staffed by the executive cannot investigate the executive. It is a pure conflict of interest and would not pass the laugh test.”

The Republicans are looking to seize on the NY Times report, as it feeds into gubernatorial candidate Westchester County Executive Rob Astorino’s narrative that Cuomo has built a house of corruption. “Governor Cuomo is in big trouble. Today’s bombshell New York Times investigative report reveals clear obstruction of justice and calculated public dishonesty by Mr. Cuomo and his subordinates. We applaud the United States attorney [Preet Bharara] for his work to levy justice on Moreland’s targets, and on those who interfered with the Commission to protect Mr. Cuomo and his political allies. We urge the greatest expediency possible these deliberations. New Yorkers cannot afford to have a crook in the Governor’s Mansion,” Astorino said.

Ironically, only one day earlier, chairman of the US Republican Governor’s Association Chris Christie, governor of neighboring New Jersey, had described Astorino’s race as “unwinnable” and said the association would not be donating to his campaign. This led Astorino to claim Cuomo and Christie had a sweetheart deal.

The face of New York corruption himself, former Republican US Senator Alfonse D’Amato, then chimed in, stating that Astorino’s remarks were unbecoming and showed he was not worthy of the office of governor.

Little did the former Republican senator turned money hungry lobbyist D’Amato know that Astorino would be partially vindicated almost immediately by the report from the “grey lady.”

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*CUOMO DEMONS EXPOSED: Moreland Commission “hobbled” by governor’s interference added by **dskriloff** on July 24, 2014*

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# **EXHIBIT 16**

NEW YORK STATE (/NEWS-POLITICS/NEW-YORK-STATE)

## Co-Chairs' Picks To Write Moreland Report Were Nixed For Second Floor Insider

Co-Chairs' Picks To Write Moreland Report Were Nixed For Second Floor Insider

By MORGAN PEHME (/author/morgan-pehme), JON LENTZ (/author/jon-lentz), MATTHEW HAMILTON (/author/matthew-hamilton)

| APRIL 14, 2014

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An assistant counsel to Governor Andrew Cuomo, who professed himself to be the author of the NY SAFE Act, was ultimately selected as the lead writer of the Moreland Commission on Public Corruption's December 2013 report after several independent candidates for the position were nixed, according to multiple sources within the Moreland Commission.

Alex Crohn, the self-proclaimed author of the SAFE Act, had not been the Moreland Commission co-chairs' first choice to write the much-anticipated report the Commission released on Dec. 2.

Their choice was Adam Skaggs, then a senior counsel to the nonpartisan Brennan Center for Justice and an expert on several areas central to the Commission's work, including campaign finance law.

Skaggs had interviewed for the job, was approved unanimously by the co-chairs—William Fitzpatrick, Kathleen Rice and Milton Williams—and was offered the position. However, the Commission's executive director, Regina Calcaterra, nixed the choice, making it clear that the governor's office did not approve of Skaggs' selection. Meanwhile, Skaggs had taken another job, at the Mayors Against Illegal Guns coalition.

After Skaggs was passed over, the Commission continued its search for an independent report writer. Other candidates with significant expertise in areas of the Commission's focus included Zephyr Teachout, a professor at Fordham University Law School and the former national director of the Sunlight Foundation, and Jenna Adams, a former staffer to Assemblyman Brian Kavanagh who is now state legislative director to New York City Comptroller Scott Stringer.

Ultimately, the co-chairs decided on Alex Camarda, the director of public policy and advocacy for the good government group Citizens Union. Camarda had been highly recommended for the position by Moreland commissioner Richard Briffault, a professor at Columbia Law School who is one of the nation's foremost authorities on government ethics. However, before Camarda was notified that he had been hired, Calcaterra threatened to resign as executive director if the Commission hired Camarda.

"I was considered for the position, but my understanding is ultimately a staff member from the governor's office assisted the Commission in writing the report rather than expend funds hiring an employee outside the government," said Camarda.

According to the dozen Commission sources interviewed for this article, all of whom spoke on the condition of anonymity so as not to anger the governor's office, Calcaterra was open with the Commission's staff and commissioners that she was closely coordinating with the governor's office, and that in many instances her demands were extensions of orders handed down by the Second Floor, in particular from the Secretary to the Governor, Larry Schwartz.

Calcaterra, who did not return calls for comment from *City & State*, had been appointed executive director of the Commission by Gov. Cuomo when he announced the Commission's creation on July 2, 2013. Just days earlier Calcaterra had wrapped up her work as the governor's appointee as executive director of the previous Moreland Commission he had called, which focused on the Long Island Power Authority and released its final report on June 22. Sources say that after Calcaterra threatened to resign over Camarda's hiring, the governor's office made it clear to the co-chairs that Calcaterra would be staying on, and that the executive chamber would not agree to the hiring of an independent, good government report writer.

By early October there was still no writer on board to draft the report, despite the days quickly ticking down to Dec. 1—the date on which Gov. Cuomo had mandated by executive order that the Commission release a preliminary report detailing its findings. As such, the co-chairs agreed to accept a report writer selected by the Second Floor, provided they would be allowed to hire a second independent writer to work alongside the executive chamber's choice.

The governor's office sent Alex Crohn. No independent writer was ever hired.

Ari Savitsky, a lawyer with the firm WilmerHale, was brought on as the report's nominal independent writer, however multiple sources depicted him as a glorified copy editor, not a primary writer of the report. Savitsky declined to comment when reached by *City & State*.

Crohn, a graduate of Harvard Law School, came to the Commission directly from the executive chamber, where he worked under Mylan Denerstein, the governor's counsel. Crohn spoke widely with members of the Commission about his work in the governor's office, claiming that he played a significant role in writing legislation. He was particularly proud of his role in authoring The New York Secure Ammunition and Firearms Enforcement Act of 2013, commonly known as the NY SAFE Act.

"This is the hardest thing I've had to write since the SAFE Act," several Commission sources recall Crohn bemoaning aloud on numerous occasions while working on the December Moreland report. Commission sources also say they overheard Crohn, who sat in the bullpen with the rest of the Moreland Commission's staff members, engaged in long conference calls that appeared to focus on the implementation of the SAFE Act.

Crohn could not be reached for this article, and the computerized message that answered his cell phone number stated that "the person you are trying to reach is not accepting calls at this time."

While Crohn's claims about authoring the SAFE Act could not be confirmed independently by any sources within the executive chamber, a review of Gov. Cuomo's public schedule appears to substantiate that he was involved in the legislation to some degree. Two days after the SAFE Act was passed on Jan. 15, 2013 ([http://en.wikipedia.org/wiki/NY\\_SAFE\\_Act](http://en.wikipedia.org/wiki/NY_SAFE_Act)), Crohn is listed as being in attendance at a

meeting (<http://www.governor.ny.gov/assets/documents/January2013.pdf>) with the governor and several of his top aides, including Denerstein, as well as law enforcement officials Sgt. James Sherman of the New York State Police's Pistol Permit Bureau and Kevin Bruen, assistant counsel for the New York State Police.

The following day, Jan. 18

(<http://www.governor.ny.gov/assets/documents/January2013.pdf>), Crohn would be in attendance at another meeting with the governor, Denerstein, Elizabeth Glaser, then the deputy secretary for public safety, Sherman and Bruen, and on Jan. 29

(<http://www.governor.ny.gov/assets/documents/January2013.pdf>) he is listed as having been at a meeting that included New York State Police Superintendent Joseph D'Amico. Crohn also shows up on the governor's schedule on March 25, 2013

(<http://www.governor.ny.gov/assets/documents/March2013.pdf>), again in a meeting with Sherman and Bruen, and on Feb. 24, 2014

([http://www.governor.ny.gov/assets/documents/February\\_2014.pdf](http://www.governor.ny.gov/assets/documents/February_2014.pdf)), in a meeting with the governor, Denerstein and Bruen.

The governor's office declined to comment for this article.

Commission sources say that by Crohn's own admission, he was an unusual fit for the job, lacking, as he was, in professional expertise in ethics reform, campaign finance, the penal code or any of the other areas principally germane to the Commission's work. Despite this dearth of qualifications on-paper, Crohn would not only serve as the lead writer of the Commission's preliminary report—which, with the shutdown of the Commission, now appears will be its only report—and sources say he also wrote the much talked about dissent to the section of that report which recommended the introduction of publicly financed elections in New York State.

While one independent expert, who requested to remain anonymous so as not to upset the governor, said that it was not unheard of for the author of a report to also write its dissent, provided the dissent accurately reflects the perspective of the dissenting minority, a commission source bristled at what the source believed was an inherent conflict of interest.

"It's crazy," said the source. "It's nothing short of crazy. It's just completely counterintuitive."

Crohn did not end up writing the entire report. Several Commission sources say that the first draft submitted by Crohn was riddled with grammatical mistakes and factual errors. Moreover, as Jimmy Vielkind would write (<http://www.capitalnewyork.com/article/albany/2013/12/8536841/how-cuomo-owns-moreland-report>) in Capital New York the day after the report's release, "its recommendations mirrored Cuomo's recent legislative platform" and seemed to be aimed chiefly at affirming the governor's agenda—thus undermining the appearance of the Commission's independence.

Appalled at the low quality of the work and its lack of specifics particularly in detailing the Commission's investigations, the co-chairs decided to silo off the executive summary of the report to Danya Perry, the chief of investigations for the Commission, since that would be the part of the report most likely to be read by the public and the media. According to multiple sources, Perry was selected because of her thorough knowledge of the status of the Commission's investigations and because the co-chairs trusted her. Some other sections of the report were handed off to Commission members who were experts in the respective areas covered.

Reached for comment, Perry declined to speak about the Commission.

After Perry completed the executive summary in November, the co-chairs refused to show it to Calcaterra, convinced that Calcaterra would instantly share it with the Second Floor. In response, sources say, Larry Schwartz called the co-chairs directly and insisted that they turn over the executive summary. But, Commission sources say the co-chairs were adamant in refusing, particularly Kathleen Rice, and the ensuing dispute caused a further breakdown in the co-chairs' already icy relationship with the Second Floor. Though the co-chairs would eventually yield and turn over the executive summary to the governor's office, thereafter the relationship between the two sides—the co-chairs and the executive chamber—would be characterized by mutual distrust.

Sources say the simmering tension split the Commission into two distinct factions: on one side, the three co-chairs, the lion's share of the commissioners, Perry and the investigations team, and the vast majority of the staff; on the other, a few commissioners like Onondaga County Executive Joanie Mahoney, and staff members directly selected by the governor's office, namely Calcaterra, Crohn, and the Commission's press secretary, Michelle Duffy.

The dissent inserted into the December report over the Commission's decision to recommend the introduction of the public financing of elections in New York State was a glaring illustration of this fissure within the Commission.

It was not until a week or two before the report's due date on Dec. 2—technically the report was supposed to be delivered on Dec. 1, but the first was a Sunday—that the notion that it would include a dissent was first brought up. Mahoney, a close ally of Governor Cuomo's, led the charge to include the dissent, as well as the effort to get other commissioners to sign on to it. Mahoney would also later claim to some of her fellow commissioners that she wrote the dissent, though multiple sources assert that it was actually authored by Crohn.

As previously reported (<http://www.nydailynews.com/blogs/dailypolitics/moreland-commission-whoops-moment-left-angry-blog-entry-1.1697389>) by the *Daily News*' Ken Lovett, at the morning meeting of the Commission on Dec. 2, the day the report was released to the public, a great debate erupted among the commissioners over the inclusion over the word *majority* in the dissent. Tensions were riding high, particularly as some of the commissioners were only seeing the dissent for the first time that morning—slipped in, as it was, at the 11<sup>th</sup> hour.

The underlying significance of the debate over the word *majority* was a belief held by many members of the Commission that the Cuomo administration was orchestrating the introduction of the dissent to undercut the significance of the Commission's support for public financed elections. As Lovett wrote at the time, "Cuomo aides were pushing for a dissenting opinion on the issue. The thinking is that Cuomo, hoping to wind down the commission, can try and push the Legislature to agree to many of the commission's other recommendations. He then would be able to argue that the Senate GOP wouldn't go along (<http://www.nydailynews.com/blogs/dailypolitics/2013/12/senate-gop-open-to-ethics-reforms-just-not-public-financing-of-campaigns>) with public financing, an issue that even had the commission split."

Co-chair Milton Williams in particular was adamant that the report not say *majority*, because it made it sound like the vote within the Commission in favor of recommending public financing was closer than it actually was. He pushed to make the distinction clear that the Commission unquestionably recommended publicly financed elections in New York State, even though seven of its 25 commissioners had signed on to a dissent.



Eventually, the commissioners agreed that the several instances of *majority* would be omitted. Still, the co-chairs were so suspicious that Calcaterra would try to make last-second unapproved alterations to the language in the report that from the late morning when the commissioners' meeting was adjourned until the report was finalized that evening—a period in excess of six hours—the co-chairs literally stood over Crohn as he put the finishing touches on the report to personally assure themselves of the integrity of the document.

Around 6 p.m. Calcaterra left the co-chairs and Crohn as they were reviewing the final draft of the report and went to her office. At 6:05 p.m. the report was made public on the Commission's website without the co-chairs signing off on its release. It was not until an article (<http://www.nystateofpolitics.com/2013/12/moreland-commissions-preliminary-report-is-released/>) from Nick Reisman of Capital Tonight appeared on the State of Politics blog referencing the report's release that the commissioners and staff realized that it had already gone out—and that the version made public still included the *majority* language.

Multiple sources recall that the commissioners present were livid, particularly Williams, and immediately sought out Calcaterra to insist that the report be corrected on the Web. Shortly thereafter, without the press being notified, the changes were made.

As Lovett would report (<http://www.nydailynews.com/blogs/dailypolitics/moreland-commission-whoops-moment-left-angry-blog-entry-1.1697389>) the following day, a number of Commission sources doubted that the release of the wrong version of the report had been unintentional on Calcaterra's part. This suspicion was fanned by the fact that Reisman's fully-formed blog post front-loaded with details of the dissent came out at 6:10 p.m.—just 5 minutes after the report was released—leading some Commission staff members to speculate that Reisman had been leaked details of the report in advance by someone pushing the dissent angle. These theories were further reinforced when Mahoney went on Capital Tonight that very evening and infuriated a number of her fellow commissioners by publicly questioning the Commission's ability to be wholly independent.

"I think we're making a mockery of this whole process if we try to pretend that a group of us that's been appointed by the attorney general and the governor is investigating the attorney general or the governor," said Mahoney on Capital Tonight a few hours after the

report was released.

Whether these occurrences are evidence of a coordinated strategy to undermine the report or mere coincidence, what is verifiable is how surprisingly subdued the governor's office's reaction was to the release of report. Exactly six months earlier, the executive chamber had played up to maximum effect the press conference in which the governor announced the creation of the blue ribbon commission and the appointment of its 25 commissioners.

At that press conference, Cuomo said, "This is a powerful signal, and I want to signal to two audiences. One are the elected officials in the state of New York—we're going to raise the bar on public integrity, public trust. And second is the people of the state. I want to say, 'Look, we have the best people in the business watching.'"

Six months later, there would be no press conference rolling out the report. The first time the governor would address the report would be the morning after its release, when he called in (<http://www.wnyc.org/story/governor-cuomo-metro-north-moreland-de-blasio/>) to the Brian Lehrer Show on WNYC, primarily to provide updates about the Metro-North crash in the Bronx that had occurred two days earlier.

In the interview, Cuomo was relatively low key about the Commission's uniqueness and impact: "To clean up Albany, I think the Moreland Commission's basic point is when the combination of money and politics is not a good combination. Now, you can say 'Yes, we know that. We knew that from the Feerick Commission. We know that in Washington, and we know that in every state government.' And it's true."

Though Cuomo said, "The Moreland Commission report makes [the] case very well" that stricter ethics legislation needed to be passed in Albany, several Commission sources construed the governor's comments as minimalizing the Commission's importance and work to date, particularly when he noted "there are obviously some questions in the report that we still have to develop and work through."

One Commission source with no apparent connection to the executive chamber speculated that perhaps the governor had downplayed his response to the report in light of the tragic train crash the day before. Another source rejects this theory, pointing out

that the evening of Cuomo's Brian Lehrer appearance the governor held a lavish \$50,000 top ticket fundraiser at the Roseland Ballroom with a much-publicized special performance by Billy Joel.

Despite all of the heated battles and dramatic showdowns over the report, virtually every source interviewed for this article both on and off the record expressed that they were largely satisfied with how it ultimately turned out from a substantive standpoint.

"I thought then—and I still think now—that it was a good product, and a lot of good people worked really hard on it, and I think its message resonates even today," said Moreland co-chair William Fitzpatrick.

Still, Fitzpatrick admitted that the way the report was released did not go the way he had imagined when he signed on to be a co-chair. When Gov. Cuomo first offered him the job, Fitzpatrick, the district attorney of Onondaga County for the last 22 years, says he saw it as "the opportunity of a lifetime for a prosecutor to be able to potentially clean up one of the most corrupt state governments in the nation."

"In my mind I pictured myself and Kathleen and Milt walking up to Governor Cuomo as if we were Earl Warren handing Lyndon Johnson the Warren Commission report, but there was so much last minute stuff going on that the roll-out wasn't what I expected," Fitzpatrick said. "But that's neither here nor there. It eventually made its way into the public's domain."

*Additional reporting by Michael Johnson*

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**Jon Lentz** is City & State's former editor-in-chief.

@jonathanlentz (<https://twitter.com/jonathanlentz>)

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# **EXHIBIT 17**

## NEWS

## Head of scandal-plagued Moreland Commission in line for cushy job

By Pat Bailey

July 30, 2014 | 9:42pm



Regina Calcaterra (right) was the executive director of the Moreland Commission, and is accused of having kept Gov. Cuomo updated on its activities.

Frank Eltmann; Rene Cervantes

ALBANY — Thanks for the info. Now here's a sweet job.

The executive director of Gov. Cuomo's anti-corruption commission — accused of reporting its every move to Cuomo aides — is in line for a cushy landing at the State Insurance Fund, sources said.

Although Cuomo disbanded the Moreland Commission panel in April, Executive Director Regina Calcaterra continues to receive her \$175,000-a-year salary.

One source said her move to the low-profile insurance agency, which sells disability and worker-compensation policies, wouldn't come as a surprise to anyone familiar with government.

"Anything in parole or insurance is a reward," the source said.

The governor's office declined to comment about what Calcaterra is currently doing or where she might be headed.

In its scathing takeout on the commission last week, The New York Times said Calcaterra tried to block a subpoena to the Real Estate Board of New York to protect the governor, who has gotten large contributors from the real estate industry.

The Times also said she resisted sending a subpoena to a major retailer to determine if its political donations were tied to passage of a tax credit that was included in Cuomo's budget.

"Investigators began to suspect that Ms. Calcaterra was monitoring their activities and reporting back to the governor's office," the Times said.

## Regina Calcaterra

**Age:** 47

**Current Job:** Executive director of Moreland Commission to Investigate Public Corruption

**Salary:**  
\$175,000  
per year

**Previous government positions:**  
2012 — Executive

director of Moreland Commission on Utility Storm Preparation and Response

**2012** — Deputy county executive of Suffolk County



**Political race:**  
Ran for state Senate on Long Island in 2010. Removed from ballot after challenge to her residency.

Rob Astorino, Cuomo's Republican challenger, charged Wednesday that Calcaterra, a former securities lawyer, is being given a new job to keep her quiet.

"It sounds like it could be hush money on the corruption merry-go-round," Astorino said outside the Tweed Courthouse near City Hall.

"Why she still has a job is beyond anyone, with her direct interference in the Moreland Commission. What does she know, and how is she trying to protect the governor?"

Calcaterra, a former securities lawyer, released a best-selling memoir last year telling how she and her siblings survived an abusive childhood and foster care.

Cuomo on Wednesday continued to defend the commission, citing a memo written by co-chair William Fitzpatrick, a Republican DA, backing the governor's claim the administration didn't interfere in its operations.

Cuomo said the other co-chairs, including Nassau DA and congressional candidate Kathleen Rice, must agree because they haven't contacted Fitzpatrick.

"I'm sure if they had a different opinion you would've heard from them because he [Fitzpatrick] was basically the spokesperson for the commission all through it," Cuomo said.

**FILED UNDER** ALBANY, ANDREW CUOMO, CORRUPTION, MORELAND COMMISSION, 7/30/14

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# **EXHIBIT 18**



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# Cuomo Under Investigation by Feds for Shuttering Corruption Commission

BY **TAYLOR WOFFORD** ON 7/23/14 AT 5:24 PM EDT



New York Governor Andrew Cuomo announces a tentative contract agreement between Long Island Railroad union representatives and the MTA on July 17, 2014

BRENDAN MCDERMID/REUTERS



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ANDREW CUOMO

CORRUPTION

NEW YORK

**I**n a textbook case of paradox, New York Governor Andrew Cuomo is under investigation by federal prosecutors for corruption after he shuttered the the Moreland Commission, which was set up by Cuomo to investigate corruption among elected officials in New York state.

**Newsweek**

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A three-month investigation by *The New York Times* published today reveals a pattern of interference by the governor's office "when it was looking into groups that were politically close to him."

The first sign of trouble came barely two months after the commission was established. An investigation into Buying Time, a media-buying firm that had placed "millions of dollars' worth of advertisements for the New York State Democratic Party," was stymied when word came down from the governor's office that the firm was off-limits, the *Times* reported. The firm, investigators learned, had placed ads for Cuomo during his campaign for governor in 2010.

When the commission attempted to subpoena the Real Estate Board of New York, "whose members have been among Mr. Cuomo's most generous supporters," Regina Calcaterra, the commission's executive director, scrubbed the investigation, the *Times* investigation revealed.

Some members of the commission, including E. Dayna Perry, a former prosecutor and deputy chief of the criminal division in the United States attorney's office in Manhattan, believed Calcaterra was acting as a mole for the governor's office

inside the commission. Some even believed Calcaterra was reading their emails. They moved sensitive files to laptops where Calcaterra could not access them, the *Times* said.

The commission also discovered evidence that Extell Development, the real estate development company responsible for the controversial "poor door" luxury apartment building, planned a fundraiser for the governor with "what amounted to a perfectly legal sidestepping of campaign-donation limits: funneling money through a series of limited-liability companies." All mention of the Extell discovery in the commission's one public report was quashed by Calcaterra, the investigation revealed.

Federal prosecutors subpoenaed Calcaterra's assistant, Heather Green, on Wednesday morning, the *Times* said.

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# **EXHIBIT 19**

# Democrat & Chronicle

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## NEWS

# Cuomo criticized over Moreland Commission report

**Jon Campbell** Wires

Published 8:01 p.m. ET Jul. 23, 2014 | Updated 7:24 a.m. ET Jul. 24, 2014

ALBANY – Gov. Andrew Cuomo faced calls Wednesday to release internal communications regarding a now-defunct anti-corruption panel as he continued to face questions about his office's alleged interference with its investigation.

Government-reform advocates and Cuomo's political opponents called on the Democrat to come clean about his personal involvement with the Moreland Commission after *The New York Times* published an extensive report Wednesday detailing his office's efforts to curtail subpoenas.

The *Times* detailed a number of instances in which top Cuomo aide Larry Schwartz and Moreland Commission executive director Regina Calcaterra took actions that helped keep the anti-corruption panel from investigating Cuomo and his allies.

Cuomo appointed the panel last year to investigate corruption in Albany and pledged it would be "independent," but he abruptly disbanded it in late March after lawmakers agreed to a series of reforms.

"The governor is answerable to the people of New York who should be deeply disturbed by the report's well documented pattern of interference," Common Cause/NY, a good-government group, wrote in a statement. "This report reveals the stark contradiction between the governor's public statements promising the independence of the commission and the behind-the-scenes actions of his staff."

As a panel largely made up of district attorneys and current and former law enforcement officials, the now-disbanded Moreland Commission had attracted the interest of U.S. Attorney Preet Bharara, who oversees the state's southern district and has been investigating the panel's demise.

The *Times* report detailed infighting within the commission and regular contact with Schwartz, the governor's secretary.

At least twice, the *Times* reported, Schwartz directed the panel to pull back subpoenas that were directed to entities with ties to Cuomo: Buying Time, an advertising firm that had worked on Cuomo's 2010 campaign, and the Real Estate Board of New York, a lobbying group whose members are among Cuomo's biggest campaign donors.

In another instance, Calcaterra — a Cuomo ally who remains on the state payroll at a salary of \$175,000 — removed a reference to the Committee to Save New York in a report issued by the commission last year, according to the report. The lobbying group spent millions promoting Cuomo's agenda in 2011 and disbanded before a new law would have forced it to reveal its donors.

Cuomo had launched the Moreland panel in July 2013 after a string of lawmaker arrests, with charges brought by Bharara's office, in most cases.

The panel boasted 10 current district attorneys among its 25 members, including Broome County's Gerald Mollen, Rockland County's Thomas Zugibe and Frank Sedita of Erie County.

Cuomo repeatedly promised that the panel would be independent and would have the ability to freely look at any branch of government — including his own.

"It's an independent commission that is free to investigate whatever they believe needs to be investigated on the merits," Cuomo has said. "It's not about the Legislature. It's about enforcing the campaign-finance laws in this state."

But when he disbanded it in March, Cuomo dismissed the suggestion that his office tampered with the commission's work, claiming ownership of the commission and suggesting he could control it as he sees fit.

In a 13-page response to inquiries from the *Times* before the report was published, Cuomo's office said the suggestion that it improperly interfered with the panel is "legally, ethically, and practically false."

"First, your fundamental assertion is that the commission was independent," Cuomo's office wrote. "It wasn't. No Moreland Commission can be independent from the governor's office. It is purely a creation of the governor's power under the law, which vests subpoena power in the governor or his designee."

When asked for comment Wednesday, Cuomo's office referred to its response to the *Times*.



In his own statement to the paper, Schwartz acknowledged serving as a "liaison" between the Moreland panel and the governor's office. He also acknowledged giving advice "on investigative or tactical decisions with a view to improving the Commission's effectiveness and fairness."

"In my view, there was a risk that the abrupt issuance of subpoenas without a well-thought out plan could fuel a perception that the Moreland was acting politically rather than fairly and with due consideration," Schwartz wrote.

Marc Mukasey, an attorney representing Calcaterra, declined to say whether Calcaterra has been on the receiving end of any subpoenas.

"Everything Regina did she did in a good-faith effort to fulfill her duties with integrity," Mukasey said Wednesday.

The governor's political opponents pounced Wednesday, with Fordham Law Professor Zephyr Teachout calling on Cuomo to resign if he knew of Schwartz' alleged involvement with the commission. Teachout is challenging Cuomo in a Democratic primary this year, though Cuomo is supporting an attempt to have her knocked off the ballot.

Westchester County Executive Rob Astorino, the Republican candidate for governor, called on Cuomo to release all internal communications regarding the Moreland Commission.

"The people of New York, I think, are absolutely tired of scandal and corruption in Albany," Astorino said. "It's appalling that a man who rode in promising to be the White Knight is actually knee deep in scandal right now. Mr. Cuomo absolutely needs to come clean and he needs to do that right now."

Astorino suggested Schwartz should lose his job over the alleged interference. Schwartz is a former deputy to ex-Westchester County Executive Andy Spano, who Astorino ousted in 2009.

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Includes reporting by Albany Bureau Chief Joseph Spector and Journal News staff writer Elizabeth Ganga.

# **EXHIBIT 20**



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U.S. Attorney's Office

Southern District of New York

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FOR IMMEDIATE RELEASE

Monday, January 11, 2016

## **Statement Of U.S. Attorney Preet Bharara Relating To Moreland Commission Investigation**

"After a thorough investigation of interference with the operation of the Moreland Commission and its premature closing, this Office has concluded that, absent any additional proof that may develop, there is insufficient evidence to prove a federal crime. We continue to have active investigations related to substantive inquiries that were being conducted by the Moreland Commission at the time of its closure."

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**Component(s):**

USAO - New York, Southern

**Press Release Number:**

16-009

Updated January 11, 2016

# **EXHIBIT 21**



# Commonwealth of Kentucky

## CONTRACT

**DOC ID NUMBER:**

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Version: 1

Record Date: 11/25/20

Document Description: Legal Investigative Services for Kentucky Retirement System

Cited Authority: FAP111-43-00-L  
Personal Services Contracts-Legal

Reason for Modification:

**Issuer Contact:**Name: Cassandra Weiss  
Phone: 502-696-8451  
E-mail: Cassandra.Weiss@kyret.ky.gov**Vendor Name:**

Calcaterra Pollack LLP

1140 Avenue of the Americas

9th Floor

New York

NY 10036

**Vendor No.**

KS0008593

**Vendor Contact**

Name: Regina Calcaterra

Phone: 212 899 1766

Email:

Effective From: 2020-11-23

Effective To: 2021-09-30

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
1	2020-11-23 00:00:00.0000	0.00000		Legal Investigative Services for KY Retirement Systems	\$0.000000	\$1,200,000.00	\$1,200,000.00

**Extended Description:**

Calcaterra Pollack LLP will provide Kentucky Retirement Systems (KRS) with legal investigative services related to investment activities conducted by the Kentucky Retirement Systems to determine if there are any improper or illegal activities on the part of the parties involved. WHD Ticket 26629

Shipping Information:	Billing Information:
Kentucky Retirement Systems 1260 Louisville Road  Frankfort KY 40601	Kentucky Retirement Systems 1260 Louisville Road  Frankfort KY 40601

**TOTAL CONTRACT AMOUNT: \$1,200,000.00**

## PERSONAL SERVICE CONTRACT FOR

Legal Investigative Services

BETWEEN

THE COMMONWEALTH OF KENTUCKY

Kentucky Retirement Systems

AND

Calcaterra Pollack LLC  
1140 Avenue of the Americas, 9th Floor  
New York, NY 10036

This Personal Service Contract (PSC) is entered into, by and between the Commonwealth of Kentucky, Kentucky Retirement Systems ("the Commonwealth") and Calcaterra Pollack LLC ("the Contractor") to establish a contract for Legal Services. The initial PSC is effective from November 23<sup>rd</sup>, 2020 through September 30<sup>th</sup>, 2021.

The Commonwealth and Contractor agree to the following:

**I. Scope of Contract**

Calcaterra Pollack LLC shall provide the following services:

Calcaterra Pollack will investigate specific investment activities conducted by the Kentucky Retirement Systems to determine if there are any improper or illegal activities on the part of the parties involved and produce a detailed report documenting their investigation and findings. The Kentucky Retirement Systems may ask the Contractor to produce a summary report that would be suitable to publish to the public without waiving attorney/client privilege.

The report shall document how the Contractor arrived at their conclusion. If improper or illegal activity is uncovered, the Contractor shall also provide a complete analysis of potential legal remedies available to the System, including pros and cons of undertaking legal action, a cost/benefit analysis of such action, and any possible legal impediments to the legal action, and legal recommendations regarding best practices for investment activities. It is expected that the investigation and report be concluded within four (4) months of the commencement of the investigation.

The Contractor must acknowledge that by conducting this independent investigation and legal recommendations the Contractor would be ineligible to represent the Kentucky Retirement Systems in any litigation that may potentially arise from the investigation.

Kentucky Retirement Systems, also known as Systems, operates three (3) IRC Section 401(a) qualified governmental retirement plans under Kentucky Revised Statutes Chapter 16.505 et seq., Chapter 61.510 et seq. and Chapter 78.510 et seq.. The Systems is governed by a board of trustees and appointed executive director. Additional information concerning the Systems, including board policies, may be obtained at the following website: <http://kyret.ky.gov>.

Pursuant to KRS 61.650 the officers and trustees of the Systems have the obligation to act solely in the interest of the members and beneficiaries of the three (3) qualified governmental retirement plans. Per the terms of the solicitation, the Contractor is advised that this agreement does not guarantee a minimum amount of work.

Pursuant to the passage of House Bill 484, effective April 1, 2021, the Systems will be re-organized into three (3) separate Boards. At that time, any contracts awarded by the Systems shall be absorbed into the newly formed Kentucky Public Pensions Authority (KPPA), which shall provide personnel needs, day-to-day administrative duties, and other duties for the KRS and CERS Boards

**Relationship of the Parties.** Contractor warrants that all work performed by Contractor under this Contract is and shall be performed as an independent contractor. Contractor shall be responsible for compliance with all laws, rules and regulations by its respective employees, including, but not limited to, employment of labor, hours of labor, health and safety, working conditions, worker's compensation insurance, and payment of wages. This Contract shall not be construed so as to create a partnership or joint venture between Contractor and Kentucky Retirement Systems.

**Amendments and Renewal.** Written modifications, amendments or additions to this Contract shall be effective only when signed by both parties.

**Notices of Material Changes.** Contractor shall notify the Board of Trustees in writing within five (5) business days of any material changes in senior officers, significant legal actions instituted against Contractor, or any investigations, examinations, or other proceedings commenced by any governmental agency including but not limited to investigations by any bar association. Notices required in this Section shall be served on Kentucky Retirement Systems by registered or certified mail.

**Assignment.** This contract may not be assigned by Contractor without the written consent of Kentucky Retirement Systems. Further, the obligations of Contractor under this contract shall be considered personal obligations of Contractor, performable solely by Contractor and Contractor may not delegate its duties hereunder to any entity other than an employee of Contractor without the express written consent of Kentucky Retirement Systems. Kentucky Retirement Systems, upon its determination of need for certain distinctive services related to any legal matter or business operations matter, and by providing written authorization to Contractor, may authorize Contractor to obtain services from legal or non-legal professionals to satisfy the Kentucky Retirement Systems' need for such distinctive services.

**Controlling Law; Jurisdiction and Venue; Waiver.** All questions as to the execution, validity, interpretation, construction, and performance of this agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky, without regard to conflict of laws principles

thereof. Contractor hereby consents to the jurisdiction of the courts of the Commonwealth of Kentucky and further consents that venue shall lie in the Franklin Circuit Court located in Franklin County, Kentucky. To the extent that in any jurisdiction Contractor may now or hereafter be entitled to claim for itself or its assets immunity from suit, execution, attachment (before or after judgment) or other legal process, Contractor, to the extent it may effectively do so, irrevocably agrees not to claim, and it hereby waives, same.

**Access to Confidential Data.** The Contractor shall comply with the Kentucky Retirement Systems' Conflict of Interest and Confidentiality Policy. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the Kentucky Retirement Systems to the extent necessary to carry out its responsibilities under the Contract. The Contractor shall presume that all information received pursuant to this Contract is confidential and subject to the provisions of KRS 61.661 unless otherwise designated by Kentucky Retirement Systems. The Contractor shall provide to the Kentucky Retirement Systems a written description of its policies and procedures to safeguard confidential information. The Contractor shall provide Kentucky Retirement Systems updates or changes to these policies in a timely manner. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats. The Contractor shall provide physical and logical protection for all Kentucky Retirement Systems written and electronic data. Electronic data shall be encrypted during transport and at rest utilizing Kentucky Retirement Systems policy standards. The Contractor is responsible for ensuring that they have reviewed all policies and policy updates. The Contractor shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract. The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of this Contract. The private or confidential data shall remain the property of the Kentucky Retirement Systems at all times.

In the event there is a conflict between KRS 61.661 and any of the terms and conditions under Section 16.00 of this Contract, KRS 61.661 will control.

**No Dissemination of Confidential Data.** No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the Kentucky Retirement Systems either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the Kentucky Retirement Systems. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract in whatever form it is maintained promptly at the request of the Kentucky Retirement Systems.

**Subpoena.** In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the Kentucky Retirement Systems and cooperate with the Kentucky Retirement Systems in any lawful effort to protect the confidential information.

**Reporting of Unauthorized Disclosure.** The Contractor shall immediately report to the Kentucky Retirement Systems any unauthorized disclosure of confidential information. Kentucky Retirement Systems will manage the disclosure in accordance with our established policies. The Contractor,



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at the sole discretion of Kentucky Retirement Systems, shall provide no cost credit monitoring services for Kentucky Retirement Systems' members that are deemed to be part of a potential disclosure. The Contractor shall bear the cost of notification to Kentucky Retirement Systems' members that are involved in a potential disclosure event, including individual letters and/or public notice.

**Survives Termination.** The Contractor's obligation under this Section regarding the security, confidentiality, and ownership of data as set forth in this section shall survive termination of this Contract.

**Severability.** The provisions of this Contract shall be deemed severable, and the unenforceability of any one or more provisions shall not affect the enforceability of any of the other provisions. In addition, if any provision of this Contract, for any reason, is declared to be unenforceable, the parties shall substitute an enforceable provision that, to the maximum extent possible in accordance with applicable law, preserves the original intentions and economic positions of the parties.

## **II. Contract Components and Order of Precedence**

The Commonwealth's acceptance of the Contractor's offer in response to the Solicitation, indicated by the issuance of a Contract Award shall create a valid contract between the Parties consisting of the following:

1. Procurement Statutes, Regulations and Policies
2. Any written Agreement between the Parties.
3. Any Addenda to the Solicitation.
4. The Solicitation and all attachments
5. Any Best and Final Offer.
6. Any clarifications concerning the Contractor's proposal in response to the Solicitation.
7. The Contractor's proposal in response to the Solicitation.

In the event of any conflict between or among the provisions contained in the contract, the order of precedence shall be as enumerated above.

## **III. Negotiated Items**

Vendor has agreed to a 5% discounted hourly rate and a not to exceed cost of \$1,200,000.

## **IV. Pricing**

Contract shall not exceed the firm fixed rate of \$1,200,000. The hourly rates shall be 5% less than the rates submitted on the cost proposal as incorporated by reference to this agreement.

## **V. Invoicing**

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The Contractor should submit invoices upon completion of each deliverable specified in this contract pursuant to the project work plan. Such invoices shall include a detailed itemized list of hours worked and submitted on the required personal service contract invoice form. The vendor shall submit the final invoices for the agreement within 90 days of the expiration date of the contract.

Kentucky Retirement Systems may reimburse the Contractor for travel expenses in accordance with the state regulations established by the Finance and Administration Cabinet and in compliance with Kentucky Revised Statutes and Kentucky Administrative Regulations upon receipt of approved documentation.

In accordance with the Legislative Research Commission, Government Contract Review Policy statement #98-1, Contractor shall not be permitted to bill for the hourly rate while being reimbursed for travel expenses.

**Personal Service Contract Standard Terms and Conditions  
Revised January 2020**

**Whereas**, the first party, the state agency, has concluded that either state personnel are not available to perform said function, or it would not be feasible to utilize state personnel to perform said function; and  
**Whereas**, the second party, the Contractor, is available and qualified to perform such function; and  
**Whereas**, for the abovementioned reasons, the state agency desires to avail itself of the services of the second party;

**NOW THEREFORE**, the following terms and conditions are applicable to this contract:

**1.00 Effective Date:**

This contract is not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the contract and until the contract has been submitted to the Legislative Research Commission, Government Contract Review Committee ("LRC"). However, in accordance with KRS 45A.700, contracts in aggregate amounts of \$10,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

**2.00 Renewals:**

Upon expiration of the initial term, the contract may be renewed in accordance with the terms and conditions in the original solicitation. Renewal shall be subject to prior approval from the Secretary of the Finance and Administration Cabinet or his authorized designee and the LRC Government Contract Review Committee in accordance with KRS 45A.695 and KRS 45A.705, and contingent upon available funding.

**3.00 LRC Policies:**

Pursuant to KRS 45A.725, LRC has established policies which govern rates payable for certain professional services. These are located on the LRC webpage <https://apps.legislature.ky.gov/moreinfo/Contracts/homepage.html> and would impact any contract established under KRS 45A.690 et seq., where applicable.

**4.00 Choice of Law and Forum:**

This contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. Any action brought against the Commonwealth on the contract, including but not limited to actions either for breach of contract or for enforcement of the contract, shall be brought in Franklin Circuit Court, Franklin County, Kentucky in accordance with KRS 45A.245.

**5.00 EEO Requirements:**

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

**6.00 Cancellation:**

The Commonwealth shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

**7.00 Funding Out Provision:**

The state agency may terminate this contract if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the contract. The state agency shall provide the Contractor thirty (30) calendar days' written notice of termination of the contract due to lack of available funding.

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#### **8.00 Reduction in Contract Worker Hours:**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

#### **9.00 Authorized to do Business in Kentucky:**

The Contractor affirms that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.

The Contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof.

#### **Registration with the Secretary of State by a Foreign Entity:**

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by KRS 14A.9-010 to obtain a certificate of authority to transact business in the Commonwealth ("certificate") from the Secretary of State under KRS 14A.9-030 unless the person produces the certificate within fourteen (14) days of the bid or proposal opening. Therefore, foreign entities should submit a copy of their certificate with their solicitation response. If the foreign entity is not required to obtain a certificate as provided in KRS 14A.9-010, the foreign entity should identify the applicable exception in its solicitation response. Foreign entity is defined within KRS 14A.1-070.

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**For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received by the contracting agency within the time frame identified above, the foreign entity's solicitation response shall be deemed non-responsive or the awarded contract shall be cancelled.**

Businesses can register with the Secretary of State at <https://onestop.ky.gov/Pages/default.aspx>

#### **10.00 Invoices for fees:**

The Contractor shall maintain supporting documents to substantiate invoices and shall furnish same if required by state government. The invoice must conform to the method described in Section V of this contract.

**Pursuant to KRS 45A.695, no payment shall be made on any personal service contract unless the individual, firm, partnership, or corporation awarded the personal service contract submits its invoice for payment on a form established by the committee.**

\*Invoice form is available on the Legislative Research Commission, Government Contract Review Committee website: <https://apps.legislature.ky.gov/moreinfo/Contracts/homepage.html>

#### **11.00 Travel expenses, if authorized:**

The Contractor shall be paid for no travel expenses unless and except as specifically authorized by the specifications of this contract or authorized in advance and in writing by the Commonwealth. The Contractor shall maintain supporting documents that substantiate every claim for expenses and shall furnish same if requested by the Commonwealth.

#### **12.00 Other expenses, if authorized herein:**

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The Contractor shall be reimbursed for no other expenses of any kind, unless and except as specifically authorized within the specifications of this contract or authorized in advance and in writing by the Commonwealth.

If the reimbursement of such expenses is authorized, the reimbursement shall be only on an out-of-pocket basis. Request for payment of same shall be processed upon receipt from the Contractor of valid, itemized statements submitted periodically for payment at the time any fees are due. The Contractor shall maintain supporting documents that substantiate every claim for expenses and shall furnish same if requested by the Commonwealth.

**13.00 Purchasing and specifications:**

The Contractor certifies that he/she will not attempt in any manner to influence any specifications to be restrictive in any way or respect nor will he/she attempt in any way to influence any purchasing of services, commodities or equipment by the Commonwealth of Kentucky. For the purpose of this paragraph and the following paragraph that pertains to conflict-of interest laws and principles, "he/she" is construed to mean "they" if more than one person is involved and if a firm, partnership, corporation, or other organization is involved, then "he/she" is construed to mean any person with an interest therein.

**14.00 Conflict-of-interest laws and principles:**

The Contractor certifies that he/she is legally entitled to enter into this contract with the Commonwealth of Kentucky, and by holding and performing this contract, he/she will not be violating either any conflict of interest statute (KRS 45A.330-45A.340, 45A.990, 164.390), or KRS 11A.040 of the executive branch code of ethics, relating to the employment of former public servants.

**15.00 Campaign finance:**

The Contractor certifies that neither he/she nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of this contract, has contributed more than the amount specified in KRS 121.056(2), to the campaign of the gubernatorial candidate elected at the election last preceding the date of this contract. The Contractor further swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the company which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

**16.00 Access to Records:**

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

**17.00 Protest:**

Pursuant to KRS 45A.285, the Secretary of the Finance and Administration Cabinet, or his designee, shall have authority to determine protests and other controversies of actual or prospective vendors in connection with the solicitation or selection for award of a contract.

Any actual or prospective vendor, who is aggrieved in connection with the solicitation or selection for award of a contract, may file protest with the Secretary of the Finance and Administration Cabinet. A protest or notice of other controversy must be filed promptly and, in any event, within two (2) calendar weeks after

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such aggrieved person knows or should have known of the facts giving rise thereto. All protests or notices of other controversies must be in writing and shall be addressed to:

**Holly M. Johnson, Secretary**  
Commonwealth of Kentucky  
Finance and Administration Cabinet  
Room 383, New Capitol Annex  
702 Capitol Avenue  
Frankfort, KY 40601

The Secretary of Finance and Administration Cabinet shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

The decision by the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

#### **18.00 Social security: (check one)**

\_\_\_\_\_ The parties are cognizant that the state is not liable for social security contributions, pursuant to 42 U.S. Code, section 418, relative to the compensation of the second party for this contract.

\_\_\_\_\_ The parties are cognizant that the state is liable for social security contributions, pursuant to 42 U.S. Code, section 418, relative to the compensation of the second party for this contract.

#### **19.00 Violation of tax and employment laws:**

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively

To comply with the provisions of KRS 45A.485, the Contractor and all subcontractors performing work under the contract shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

KRS 45A.485 also provides that, for the duration of any contract, the Contractor and all subcontractors performing work under the contract shall be in continuous compliance with the provisions of those statutes, which apply to their operations, and that their failure to reveal a final determination, as described above, or failure to comply with the above statutes for the duration of the contract, shall be grounds for the Commonwealth's cancellation of the contract and their disqualification from eligibility for future state contracts for a period of two (2) years.

Contractor must check one:

\_\_\_\_\_ The Contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.

\_\_\_\_\_ The Contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). Attached is a list of such determination(s), which includes the KRS violated, the date of the final determination, and the state agency which issued the final determination.

#### **20.00 Discrimination:**

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This section applies only to contracts disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this contract, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding a notice advising the said labor union or workers' representative of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions that may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

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Approvals

**This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.**

1st Party (KRS):

_____ <b>Signature</b>	_____ <b>Title</b>
_____ <b>Printed Name</b>	_____ <b>Date</b>

2nd Party (Vendor)

_____ <b>Signature</b>	_____ <b>Title</b>
_____ <b>Printed Name</b>	_____ <b>Date</b>

Other Party:

_____ <b>Signature</b>	_____ <b>Title</b>
_____ <b>Printed Name</b>	_____ <b>Date</b>

Approved as to form and legality:

\_\_\_\_\_  
**Attorney**



# **EXHIBIT 22**



Certified:

**E-157-20**

Filed with  
Clerk of Nassau County Legislature  
November 2, 2020 3:20PM

**NIFS ID:CQAT20000009 Department: County Attorney**

**Capital:**

SERVICE: Special Counsel Index No. 607458/2020

Contract ID #:CQAT20000009

NIFS Entry Date: 08-SEP-20

Term: from to

New
Time Extension:
Addl. Funds:
Blanket Resolution:
RES#

1) Mandated Program:	N
2) Comptroller Approval Form Attached:	Y
3) CSEA Agmt. § 32 Compliance Attached:	N
4) Material Adverse Information Identified? (if yes, attach memo):	N
5) Insurance Required	Y

<b>Vendor Info:</b>	
Name: <b>Calcaterra Pollack LLP</b>	Vendor ID#: <b>850848707</b>
Address: 250 Oak Road	Contact Person: Regina
New Suffolk, NY 11956	Calcaterra
	Phone: 2128991766

<b>Department:</b>
Contact Name: Mary Nori, Esq.
Address: 1 West Street
Mineola, NY 11501
Phone: 516-571-6083

## Routing Slip

Department	NIFS Entry: X	02-OCT-20 -- MREYNOLDSAT
Department	NIFS Approval: X	02-OCT-20 -- SBERMAN
DPW	Capital Fund Approved:	
OMB	NIFA Approval: X	13-OCT-20 -- IQURESHI
OMB	NIFS Approval: X	06-OCT-20 -- JNOGID
County Atty.	Insurance Verification: X	02-OCT-20 -- NSARANDIS
County Atty.	Approval to Form: X	02-OCT-20 -- DMCDERMOTT
CPO	Approval: X	19-OCT-20 -- KOHAGENCE
DCEC	Approval: X	19-OCT-20 -- JCHIARA

<b>Dep. CE</b>	<b>Approval: X</b>	<b>21-OCT-20 -- HWILLIAMS</b>
<b>Leg. Affairs</b>	<b>Approval/Review: X</b>	<b>02-NOV-20 -- GCASTILLO</b>
<b>Legislature</b>	<b>Approval:</b>	
<b>Comptroller</b>	<b>Deputy:</b>	
<b>NIFA</b>	<b>NIFA Approval:</b>	

## Contract Summary

<p><b>Purpose:</b> The services to be provided by the firm Calcaterra Pollack LLP ("Counsel") under this Agreement shall consist of the following: representation of the County in the matter of SEAN M. MCCARTHY v. COUNTY OF NASSAU, NEW YORK; NASSAU COUNTY DEPARTMENT OF ASSESSMENT; ASSESSMENT REVIEW COMMISSION; LAURA CURRAN in her official capacity as County Executive; AND DAVID F. MOOG in his official capacity as County Assessor for Nassau County; TOWN OF OYSTER BAY; and PLAINEDGE UNION FREE SCHOOL DISTRICTS, Index No. 607458/2020 ("McCarthy"). To date, Counsel has successfully opposed plaintiff's motions for a preliminary injunction and temporary restraining order and successfully moved for dismissal of the plaintiff's complaint; the Court denied the plaintiff's motions and dismissed the complaint and petition by Order dated September 29,2020. Counsel will continue to represent the County if the matter proceeds to appeal.</p>
<p><b>Method of Procurement:</b> The McCarthy action was filed against Nassau County involving similar tax certiorari issues raised in litigation known as Hall v. Nassau County Department of Assessment of Nassau County, Assessment Review Commission of Nassau County, et. al. ("Hall"), which was previously assigned to Counsel. Both McCarthy and Hall involve challenges to the County's assessment system. Due to the complexity of this tax certiorari litigation, based on the firm's level of expertise in tax certiorari matters, the potential high exposure to Nassau County and the fact that the McCarthy case involves similar issues to those in the pending Hall litigation, which the firm is also handling (per pending assignment of the Hall contract), the County Attorney has determined it is in the best interest of the County to retain Calcaterra Pollack LLP as special counsel in this matter.</p>
<p><b>Procurement History:</b> A total of three firms were solicited to represent the County in Hall v. Nassau County (Hall is a similar tax certiorari matter currently pending and also being handled by Calcaterra Pollack LLP - per pending assignment of the Hall contract to Calcaterra and Pollack). The three firms solicited for Hall were: (1) Wolf Haldenstein, (2) Hoguet Newman and (3) Duane Morris. Two proposals were received, one firm, Duane Morris, opted to not submit a proposal. After interviews were conducted of the two (2) responding firms, the committee unanimously chose Wolf Haldenstein Adler Freeman &amp; Herz LLP ("Wolf") based on their overall response to the proposal, demonstrated capacity to handle this assignment and the requisite staff to ensure this case would be handled properly, extensive experience in both suing and defending municipalities, and overall best value to the County. Regina Calcaterra, a key member of the County's defense in the Hall Litigation, has since left the firm of Wolf Haldenstein to form the firm Calcaterra Pollack LLP ("Calcaterra"). Due to the complex nature of the McCarthy tax certiorari litigation and based on the firm's level of expertise in tax certiorari matters, and that the McCarthy litigation is similar to the pending tax certiorari matter, Hall v. Nassau County, which the firm is also handling, Calcaterra was assigned the McCarthy litigation.</p>
<p><b>Description of General Provisions:</b> Counsel will represent the County in the McCarthy v. County of Nassau, et. al. ("McCarthy matter").</p>
<p><b>Impact on Funding / Price Analysis:</b> Maximum of \$330,975.00. Partial encumbrance will be \$85,000.00.</p>
<p><b>Change in Contract from Prior Procurement:</b> n/a - this is a new contract.</p>
<p><b>Recommendation: (approve as submitted)</b> Approve as Submitted</p>

## Business History Form

The contract shall be awarded to the responsible proposer who, at the discretion of the County, taking into consideration the reliability of the proposer and the capacity of the proposer to perform the services required by the County, offers the best value to the County and who will best promote the public interest.

In addition to the submission of proposals, each proposer shall complete and submit this questionnaire. The questionnaire shall be filled out by the owner of a sole proprietorship or by an authorized representative of the firm, corporation or partnership submitting the Proposal.

**NOTE: All questions require a response, even if response is "none" or "not-applicable." No blanks.**

(USE ADDITIONAL SHEETS IF NECESSARY TO FULLY ANSWER THE FOLLOWING QUESTIONS).

Date: 09/16/2020

1) Proposer's Legal Name: Calcaterra Pollack LLP

2) Address of Place of Business: PO Box 257

City: New Suffolk State/Province/Territory: NY Zip/Postal Code: 11956

Country: US

3) Mailing Address (if different): PO Box 257

City: New Suffolk State/Province/Territory: NY Zip/Postal Code: 11956

Country: US

Phone: (631) 903-0031

Does the business own or rent its facilities? Other If other, please provide details:

Due to COVID we are all working virtually and presently are not paying rent for an office.

4) Dun and Bradstreet number: 0000000000

5) Federal I.D. Number: 85-0848707

6) The proposer is a: Partnership (Describe) \_\_\_\_\_

7) Does this business share office space, staff, or equipment expenses with any other business?

YES ☐ NO ☒ If yes, please provide details:

\_\_\_\_\_

8) Does this business control one or more other businesses?

YES ☐ NO ☒ If yes, please provide details:

\_\_\_\_\_

9) Does this business have one or more affiliates, and/or is it a subsidiary of, or controlled by, any other business?

YES ☐ NO ☒ If yes, please provide details:

\_\_\_\_\_

- 10) Has the proposer ever had a bond or surety cancelled or forfeited, or a contract with Nassau County or any other government entity terminated?  
YES ☐ NO ☒ If yes, state the name of bonding agency, (if a bond), date, amount of bond and reason for such cancellation or forfeiture: or details regarding the termination (if a contract).

- 11) Has the proposer, during the past seven years, been declared bankrupt?  
YES ☐ NO ☒ If yes, state date, court jurisdiction, amount of liabilities and amount of assets

- 12) In the past five years, has this business and/or any of its owners and/or officers and/or any affiliated business, been the subject of a criminal investigation and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency? And/or, in the past 5 years, have any owner and/or officer of any affiliated business been the subject of a criminal investigation and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency, where such investigation was related to activities performed at, for, or on behalf of an affiliated business.

YES ☒ NO ☐ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

In July 2013 I was appointed by Governor Andrew Cuomo to serve as executive director of a statewide commission. At that time I worked for the Governor. The commission was closed down in March/April 2014. Thereafter, the US Attorney for the SDNY began an investigation into the closing of the commission. I, like many other people who worked for the Governor, was investigated. In August 2015, I was advised that I was cleared. In January 2016 the US Attorney publicly stated the the investigation was over.

- 13) In the past 5 years, has this business and/or any of its owners and/or officers and/or any affiliated business been the subject of an investigation by any government agency, including but not limited to federal, state and local regulatory agencies? And/or, in the past 5 years, has any owner and/or officer of an affiliated business been the subject of an investigation by any government agency, including but not limited to federal, state and local regulatory agencies, for matters pertaining to that individual's position at or relationship to an affiliated business.

YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

- 14) Has any current or former director, owner or officer or managerial employee of this business had, either before or during such person's employment, or since such employment if the charges pertained to events that allegedly occurred during the time of employment by the submitting business, and allegedly related to the conduct of that business:

a) Any felony charge pending?

YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

b) Any misdemeanor charge pending?

YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

c) In the past 10 years, you been convicted, after trial or by plea, of any felony and/or any other crime, an element of which relates to truthfulness or the underlying facts of which related to the conduct of business?  
YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

d) In the past 5 years, been convicted, after trial or by plea, of a misdemeanor?  
YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

e) In the past 5 years, been found in violation of any administrative, statutory, or regulatory provisions?  
YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

- 15) In the past (5) years, has this business or any of its owners or officers, or any other affiliated business had any sanction imposed as a result of judicial or administrative proceedings with respect to any professional license held?

YES ☐ NO ☒ If yes, provide details for each such investigation, an explanation of the circumstances and corrective action taken.

- 16) For the past (5) tax years, has this business failed to file any required tax returns or failed to pay any applicable federal, state or local taxes or other assessed charges, including but not limited to water and sewer charges?  
YES ☐ NO ☒ If yes, provide details for each such year. Provide a detailed response to all questions checked 'YES'. If you need more space, photocopy the appropriate page and attach it to the questionnaire.

- 17) Conflict of Interest:

a) Please disclose any conflicts of interest as outlined below. NOTE: If no conflicts exist, please expressly state "No conflict exists."

(i) Any material financial relationships that your firm or any firm employee has that may create a conflict of interest or the appearance of a conflict of interest in acting on behalf of Nassau County.

No conflict exists

(ii) Any family relationship that any employee of your firm has with any County public servant that may create a conflict of interest or the appearance of a conflict of interest in acting on behalf of Nassau County.

No conflict exists

(iii) Any other matter that your firm believes may create a conflict of interest or the appearance of a conflict of interest in acting on behalf of Nassau County.

NO conflict exists

- b) Please describe any procedures your firm has, or would adopt, to assure the County that a conflict of interest would not exist for your firm in the future.

Calcaterra Pollack LLP has implemented a conflict check process with every prospective client. Records are searched and correspondence is sent out firm-wide inquiring if a conflict exists with the proposed plaintiffs and defendants. A record is made of the conflict check and put into our data base.

- A. Include a resume or detailed description of the Proposer's professional qualifications, demonstrating extensive experience in your profession. Any prior similar experiences, and the results of these experiences, must be identified.

Have you previously uploaded the below information under in the Document Vault?

YES ☐ NO ☒

Is the proposer an individual?

YES ☐ NO ☒ Should the proposer be other than an individual, the Proposal MUST include:

- i) Date of formation;

04/01/2020

- ii) Name, addresses, and position of all persons having a financial interest in the company, including shareholders, members, general or limited partner. If none, explain.

Principals of Calcaterra Pollack LLP

Partner: Regina M. Calcaterra

Home Address: 250 Oak Rd., New Suffolk, NY 11956

Partner: Janine L. Pollack

Home Address: 200 Riverside Blvd, Apt 10A, New York, NY 10069

*No individuals with a financial interest in the company have been attached..*

- iii) Name, address and position of all officers and directors of the company. If none, explain.

None. This is a partnership so we just have partners. Please see response to above questions for equity partners and home addresses.

*No officers and directors from this company have been attached.*

- iv) State of incorporation (if applicable);

NY

- v) The number of employees in the firm;

6

vi) Annual revenue of firm;  
2000000

vii) Summary of relevant accomplishments  
See attachment. Also annual revenues above are estimated as this is a new firm. Estimates are based upon existing cases.

1 File(s) Uploaded: Calcaterra Pollack LLP - Firm Qualifications.pdf

viii) Copies of all state and local licenses and permits.

B. Indicate number of years in business.

0

C. Provide any other information which would be appropriate and helpful in determining the Proposer's capacity and reliability to perform these services.

1 File(s) Uploaded: Calcaterra Pollack LLP - Firm Qualifications.pdf

D. Provide names and addresses for no fewer than three references for whom the Proposer has provided similar services or who are qualified to evaluate the Proposer's capability to perform this work.

Company	Suffolk County Executive		
Contact Person	Dennis Cohen, Chief Deputy & County Attorney		
Address	100 Veterans Highway		
City	Hauppauge	State/Province/Territory	NY
Country	US		
Telephone	(631) 853-5593		
Fax #			
E-Mail Address	dennis.cohen@suffolkcountyny.gov		

Company	MTA		
Contact Person	Ivy Stempel, Sr. Counsel		
Address	2 Broadway		
City	New York	State/Province/Territory	NY
Country	US		
Telephone	(212) 878-7251		
Fax #			
E-Mail Address	istempl@mtahq.com		

Company	Kentucky Retirement System		
Contact Person	Vicky Hale, Counsel		
Address	1260 Louisville Rd.		
City	Frankfort	State/Province/Territory	KY
Country	US		
Telephone	(502) 696-8800		
Fax #			
E-Mail Address	victoria.hale@kyret.gov		



I, Regina Calcaterra , hereby acknowledge that a materially false statement willfully or fraudulently made in connection with this form may result in rendering the submitting business entity and/or any affiliated entities non-responsible, and, in addition, may subject me to criminal charges.

I, Regina Calcaterra , hereby certify that I have read and understand all the items contained in this form; that I supplied full and complete answers to each item therein to the best of my knowledge, information and belief; that I will notify the County in writing of any change in circumstances occurring after the submission of this form; and that all information supplied by me is true to the best of my knowledge, information and belief. I understand that the County will rely on the information supplied in this form as additional inducement to enter into a contract with the submitting business entity.

### **CERTIFICATION**

A MATERIALLY FALSE STATEMENT WILLFULLY OR FRAUDULENTLY MADE IN CONNECTION WITH THIS QUESTIONNAIRE MAY RESULT IN RENDERING THE SUBMITTING BUSINESS ENTITY NOT RESPONSIBLE WITH RESPECT TO THE PRESENT BID OR FUTURE BIDS, AND, IN ADDITION, MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL CHARGES.

Name of submitting business: Calcaterra Pollack LLP

Electronically signed and certified at the date and time indicated by:  
Regina Calcaterra [RCALCATERRA@CALCATERRAPOLLACK.COM]

Partner  
Title

09/16/2020 02:46:59 PM  
Date

# **EXHIBIT 23**

# LAWYER LIMELIGHT: REGINA CALCATERRA

By Alison Preece | March 8, 2021 | Lawyer Limelights



Last year, in early March, Regina Calcaterra gave notice at her firm and prepared to launch her own boutique with a meaningful dedication to social justice.

Like the rest of us, she didn't anticipate a global pandemic locking down the population and bringing normal business operations to a halt.

Luckily, Calcaterra is no stranger to perseverance through hard times. Her public service work includes managing Suffolk County's fiscal crisis and fallout from Hurricane Sandy, and investigating public corruption throughout New York in a statewide commission led by Governor Andrew Cuomo. She represented the largest transportation authority in New York State in an opt-out from the sprawling, closely-watched interchange fee antitrust case against Visa and MasterCard, and helped recover \$250M from Merrill Lynch over its mortgage-backed securities practices that contributed to the 2008 credit crisis.

On a personal note, Calcaterra grew up in the foster care system in Long Island, NY, bouncing between temporary homes and homelessness with her four siblings, a story she tells in her New York Times best-selling memoir, **"Etched in Sand."**

This personal and professional experience gives Calcaterra a wealth of knowledge and skills to draw from, and the type of heart-centered advocacy that, in our opinion, represents the best future of the legal profession.

Regina teamed up with leading consumer class action lawyer Janine Pollack, and the fully women-owned firm, **Calcaterra Pollack**, was launched in Spring 2020, specializing in class actions, government investigations, commercial litigation and civil rights matters including child abuse. In addition to their practices, and in another forward-thinking move, the leaders of the firm are dedicated to inclusion and the well-being of their own workers.

Thank goodness she persisted.

**Lawdragon:** Regina, tell us about the firm you recently started. What practices are you focusing on? What work has come in so far?

**Regina Calcaterra:** Calcaterra Pollack represents states, municipalities and labor health and welfare benefit funds in complex federal and state litigation on both the plaintiff and defense sides. Based upon my prior government investigation experience, we were recently retained to conduct a complex investigation that taps into the firm's various practice areas.

One of our firm's hallmarks is its diversity – seven of our eight team members are women and/or professionals of color and/or openly LGBTQ and/or a DACA recipient.

Our practice areas include plaintiff side securities, antitrust and consumer protection; municipal and public pension plan representation; internal investigations; and social justice matters.

Our pending litigation includes representing New York's Metropolitan Transportation Authority in various securities and antitrust matters; New York City labor health and welfare benefit funds in federal multi-district litigation against opioid manufacturers seeking recoveries arising from the role of pharmaceutical companies in the opiate crisis; the County of Suffolk in an antitrust matter against over 40 drug companies who, since 2011, colluded to rig generic drug prices resulting in cost increases up to 900%; defending the County of Nassau in a federal class action; serving as co-lead counsel representing eight families who lost their infants in the Rock 'n Play Sleeper against Mattel, Inc. and Fisher-Price, Inc. before the inclined sleeper was recalled; and representing childhood sexual assault survivors pursuing justice via the Child Victims Act adopted in various states.

**LD:** Sounds like you're doing some incredible work so far, and a wide spectrum. The Child Victims Act work in particular must be incredibly difficult but is so vital.

**RC:** Our representation of childhood sexual assault survivors is personal to me as a survivor of both childhood physical and sexual abuse, and the U.S. foster care system. Being a trauma-informed attorney who speaks nationally to raise awareness about the plight of older foster youth, childhood poverty, homelessness and abuse, I believe that my personal experience brings a heightened level of sensitivity and compassion to our clients, including those who have suffered significant losses, such as our clients whose infants died in the Rock 'n Play Sleeper, or those who have suffered physical and sexual abuse.

**LD:** They're lucky to have you. Can you tell us more about your government service background?

**RC:** I have spent my career serving either in executive or management positions in state and local government, or as a partner in mid-sized law firms. My government executive roles include serving as executive director of two of New York Governor Andrew Cuomo's statewide investigations and as Chief Deputy to Suffolk County Executive Steven Bellone, where I managed a county of over 1.5 million residents, 9,500 employees, and a \$2.7B budget. Serving as the Chief Deputy, I also managed Suffolk County's immediate response in the aftermath of Super Storm Sandy. These positions required me to

organize chaos, manage in a time of crisis, implement strict disciplines to meet end goals and maintain perspective on what was important.

Although I never imagined launching my own firm prior to this past year, I believe that the skills I perfected in these previous roles provided me with significant guidance in launching the firm, despite the ensuing pandemic.

**LD:** You started this firm in the midst of the pandemic, then? That must have come with some challenges, to put it lightly.

**RC:** For sure. At the height of the pandemic, I launched a 100% women-owned, boutique law firm with co-founder Janine Pollack to ensure that our clients continued to receive superior representation.

In early March, I gave a month's notice of resignation to my prior firm, but what I did not anticipate is that, less than two weeks later, obstacles presented by the global shutdown would come barreling toward me.

I focused on three objectives: ensuring that there was no interruption in my clients' representation; ensuring that my team members would receive their paychecks; and, most importantly, making certain that my team would not experience any interruptions in their healthcare benefits, especially in light of the Covid-19 crisis.

Normally, this would be a somewhat seamless process; however, some of the challenges we faced included a shutdown of the Secretary of State's office, which slowed down the legal formation of the law firm; potential lending opportunities drying up due to the extreme market fluctuation; and closure of bank locations, which required businesses to open company accounts in person. In addition to these administrative hurdles, I found myself addressing all the complexities of launching a firm virtually, including the promotion of efficient collaboration between some colleagues who were just beginning to work with one another for the first time, as well as leveraging technology resources to ensure that team members were able to succeed in their 'work from home' environments.

**LD:** You were up against so much. What kept you going?

**RC:** Discipline, maintaining perspective and imagining the goal line kept moving me forward to identify

solutions, and Janine and I ultimately soft-launched the firm in spring 2020.

Looking back, I am grateful that we were able to launch the way that we did. It defined us as tenacious advocates, both for our clients and for ourselves. Although we've only been in business for less than a year, we have achieved litigation successes for our anchor clients, brought on significant new clients and cases, and anticipate growing our team to meet our clients' needs. Further, it has enabled Janine and me to operate a firm based upon principles of wellness and diversity and inclusion, while continuing our fierce advocacy for our clients.

**LD:** That's incredible. Great lesson in perseverance. What originally motivated you to start your own firm? And what would you say differentiates Calcaterra Pollack?

**RC:** We are committed to inclusion, contributing to the diversity pipeline, and making sure that each of our team members is engaged in the operations of our firm.

We believe every voice should be heard, from attorneys to staff members. Gaining from the varied experiences and insights of others is what makes a strong law firm. My partner Janine and I are also mindful that when you increase visibility of others at the firm, we all benefit. For example, we have had the opportunity to have two articles published since July and named in the bylines were all those who contributed, including an intern, paralegal and associate. By placing their names on the byline alongside that of a partner, we reinforce to our team that their contributions matter. We also apply these principles to our case management and client contact opportunities.

We also contribute to promoting diversity in the bar through our Pre-Law Diversity Pipeline Internship, which I began in 2016. This summer internship is done in coordination with the SUNY New Paltz and the City University of New York at Hunter College. Many former interns have been admitted into law schools or are presently applying to law school, including our paralegal – a DACA recipient who was one of the 2018 pre-law diversity interns and who co-managed our virtual internship with me this year.

Team members are engaged with the business of operating a law firm in various capacities including client development, client maintenance and marketing. By exposing each team member to the business of the law, we are increasing both their professional value and in turn, the firm's value.

**LD:** A smart way to do business, which also happens to nudge the profession to a more equitable place.

You're setting a strong example. Does your practice have a social justice focus, as well?

**RC:** Since I spent a significant part of my career in the public sector, I see our representation of state and municipal entities through the prism of its impact upon public policy, taxpayers and residents. Obtaining a significant settlement for a government entity or getting a suit dismissed that could have adversely impacted its budget isn't just about prevailing in litigation – there are other positive ripple effects. When a government entity has been defrauded, that means that the taxpayers have been too, because it is their money that is being lost as well. If a government entity cannot recover their loss, they will have to look elsewhere to meet their budget. Sometimes this will result in higher income, real estate, or sales taxes or increases in fees for small businesses. Most elected officials do not want to raise taxes or fees, so as an alternative, they will reduce funding in other areas to balance the budget.

Unfortunately, cost reductions often affect services provided to the most vulnerable populations – a truth my siblings and I know all too well from our experience interacting with government agencies operating in and around the foster care system.

**LD:** Are you involved in any advocacy related to the foster care system currently?

**RC:** Yes, raising awareness about the plight of older foster youth is particularly important to me.

I am on the Board of Believers of **You Gotta Believe**, a nonprofit that for over 20 years has worked to find older foster youth forever families so they don't 'age out' of the foster care system on their own.

This is exactly what happened to me. When a youth turns 18 or 21, depending upon what state they reside in, their foster parents will no longer receive government funding for them.

Most often, this results in foster youth being kicked out of their foster homes and left to fend for themselves, without a safety net or a caring adult to guide them. The majority of youth who age out of foster care end up homeless, incarcerated, or worse.

Unfortunately, less than 3% of aged-out youth actually graduate from college, because it is almost impossible to do so without a support system.



I have written about the impact of You Gotta Believe's mission and the plight of aged-out foster youth in my New York Times best-selling memoir, **Etched in Sand, A True Story of Five Siblings Who Survived an Unspeakable Childhood on Long Island** (HarperCollins Publishing, 2013) and in national and local publications.

I also speak publicly about the issues confronting foster youth and their trauma to audiences throughout the U.S., including family law judges, educators, social workers and high school and college students, as well as countless not-for-profit organizations working to impact the lives of children in need.

I am also co-chair of an annual event called Case's for Cases that focuses on providing over 600 teens in homeless shelters and foster group homes on Long Island with essential and comfort items, and acceptable cases to carry them in, since many of the teenagers in homeless shelters only have a garbage bag to carry their belongings. We held a Covid-compliant event this past November and it was tremendously heartwarming to see that the pandemic did not prevent those who could give from giving.

My other public interest activities include serving as first vice chair to the SUNY New Paltz Foundation Board which provides scholarships to eligible college students, most of whom are first generation and/or low-income enrollees. I am also on the advisory committees of The Felix Organization, which provides opportunities to foster youth in the New York City area, and the New York Society for the Prevention of Cruelty to Children.

**LD:** To bring it back to the early days, what made you first want to be a lawyer?

**RC:** While an undergraduate at SUNY New Paltz, I initially declared an education major. During the second semester of my sophomore year, I took a class on international politics taught by Professor Lew Brownstein, to fulfill a history requirement for my major. In this class, I not only learned about global policy and politics, different forms of government and their leaders, but also how impoverished so many countries and their people were under poor governmental leadership. I learned about sex trafficking, child warriors, and how little girls had to walk miles to gather water for their families and sometimes never returned. It was this class that taught me that despite growing up the way my siblings and I did, we were lucky that we were born into our circumstances in the U.S. Otherwise, our fate could have been far worse.

I became so enthralled with public policy and the role that government plays in our daily lives that I changed my major to political science. Upon graduation at the age of 21, I began my career in public policy working as an advocate for people with disabilities for the Eastern Paralyzed Veterans Association (“EPVA”). All of my bosses were veterans who used wheelchairs for mobility, and most were injured during the Vietnam and Korean Wars. It was 1988. The EPVA was at the forefront of the national effort to pass a federal civil rights law for people with disabilities. For the next two years, my job focused on raising awareness about the needs of people with disabilities in public accommodations and public transportation. After the Americans with Disabilities Rights Act of 1990 was passed, I began lecturing and providing guidance to various government entities on the provisions of the ADA.

I was then hired by New Jersey Transit to assist in drafting their plan to comply with the ADA which included making their commuter and light rail, buses and paratransit systems compliant with the new federal law. It was during this time, while working alongside many attorneys, that I began to consider a career in the law. I could not afford to quit my job, so I applied to all evening law programs in New York and New Jersey, and was accepted into Seton Hall University, which was a few blocks away from my job.

For four very long years, I worked full-time and attended law-school in the evenings.

**LD:** No small feat. Do you have any advice now for current law school students?

**RC:** Network, network, network. Value as an attorney is not just based upon your legal skills, but it is also based upon your ability to develop and maintain clients. Cultivate the professional relationships you make at a young age, as there is a strong chance they will turn into business opportunities in the future.

# **EXHIBIT 24**



# Kentucky Secretary of State

## Michael G. Adams

### CALCATERRA POLLACK LLP

[File Annual Report](#)[Printable Forms](#)[Additional Services](#)

#### General Information

<b>Organization Number</b>	1109451
<b>Name</b>	CALCATERRA POLLACK LLP
<b>Company Type</b>	REG - Name Registration
<b>Status</b>	I - Inactive
<b>State</b>	NY
<b>File Date</b>	8/20/2020
<b>Authority Date</b>	8/20/2020
<b>Expiration Date</b>	12/31/2020
<b>Applicant Address</b>	PO BOX 257 NEW SUFFOLK, NY 11956

#### Current Officers

#### Individuals / Entities listed at time of formation

#### Images available online

Documents filed with the Office of the Secretary of State on September 15, 2004 or thereafter are available as scanned images or PDF documents. Documents filed prior to September 15, 2004 will become available as the images are created.

Foreign Limited Partnership	9/29/2020	1 page	tiff	PDF
Name Registration	8/20/2020	1 page	tiff	PDF

#### Assumed Names

CALCATERRA POLLACK LLP	Inactive
CALCATERRA POLLACK LLP	Active

# Activity History

Filing	File Date	Effective Date	Org. Referenced
Convert To	9/29/2020 11:15:37 AM	9/29/2020	CALCATERRA POLLACK LLP
Add	8/20/2020 8:52:03 AM	8/20/2020	

# Microfilmed Images

[Contact](#)   [Site Map](#)

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Kentucky Unbridled Spirit

# **EXHIBIT 25**



COMMONWEALTH OF KENTUCKY  
MICHAEL G. ADAMS, SECRETARY OF STATE

1109451.01

Bdennis  
ADD

Michael G. Adams  
Kentucky Secretary of State  
Received and Filed:  
8/20/2020 8:52 AM  
Fee Receipt: \$36.00

Division of Business Filings  
P.O. Box 718,  
Frankfort, KY 40602  
(502) 564-3490  
www.sos.ky.gov

Registration or Renewal of Entity Name  
(Foreign Business Entity)

REG

**NOTICE:** This registration only reserves a name for future use. It does not authorize the entity to do business in Kentucky. To do that, you must submit an Application for Certificate of Authority.

Pursuant to the provisions of KRS 14A and KRS Chapter 271B, 273, 274, 275, 362 or 386, the undersigned applies for registration or renewal and, for that purpose, submits the following statements:

1. The entity is a: ☐ profit corporation (KRS 271B). ☐ nonprofit corporation (KRS 273).  
☐ professional service corporation (KRS 274). ☐ business trust (KRS 386).  
☐ limited liability company (KRS 275). ☐ limited partnership (KRS 362).  
☐ professional limited liability company (KRS 275). ☐ Statutory trust  
☐ limited cooperative association ☐ non-profit limited liability company  
☐ cooperative association ☒ limited liability partnership (LLP)

2. The activity request is:

- ☒ Registration  
☐ Renewal

3. The name of the entity is Calcaterra Pollack LLP

4. The state or country of organization is New York, US

5. The date of organization is April 24, 2020

6. The mailing address of the entity is

PO Box 257, New Suffolk, NY 11956

Street Address or Post Office Box Numbers

City

State

Zip Code

7. The nature of the business of the entity is a law firm that has experience in federal and state complex litigation

8. This application will be effective upon filing.

I/We declare under penalty of perjury under the laws of Kentucky that the forgoing is true and correct.

Signature of Authorized Agent

Regina Calcaterra

Printed Name

Partner

Title

8.12.2020

Date