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Chairman Jeremy J. Zellner
Erie County Democratic Committee
671 Seneca Street
Buffalo, NY 14210
VIA HAND DELIVERY

September 8, 2014

RE: FORMAL REQUEST THAT IMPROPER REQUESTED DONATIONS FROM
PROSPECTIVE SUPREME COURT CANDIATES BE RETURNED

Dear Chairman Zellner:

It has come to my attention that you have solicited funds from nine potential Supreme Court Candidates which at best is unethical, and could violate election laws. It puts the potential Supreme Court Candidates at risk of censure or disqualification from holding office as set forth in more detail below.

My understanding is that you requested four thousand dollars from nine potential Democratic Supreme Court Candidates, which was paid by them. This pay for play is not what the Democratic Party is about, and, is nothing short of extortion. You made it clear to them without the payment they would not even be considered for that office.

What makes your request funds from these potential Supreme Court Candidates even more disturbing is that it appears you are considering a cross or bipartisan endorsement of Erie County Elections Commissioner Dennis Ward for Supreme Court. Consequently, of the five potential Supreme Court Democratic spots on the ballot, only three would remain. Therefore, you have inappropriately pressured nine potential Supreme Court Candidates, presumably loyal and outstanding members of the Democratic Party, for three openings --you have left six potential Supreme Court Candidates with false hopes and promises. This is not a way to build unity for the party.

As you should be aware in "2002 a series of articles in The Buffalo News underscored [pay for play for Supreme Court Candidates]. The stories, which Brennan Center attorney Jeremy Creelan said helped spur the suit, outlined how candidates were forced to pay tens of thousands of dollars to party organizations to even merit a look from the all-controlling chairmen. It even showed that cross-endorsed judicial candidates -- those given bipartisan backing -- would raise the money and spend it on campaign "consultants" who were headquarters favorites." Citing from Buffalo News Article full copy attached"

Moreover, the Judicial Campaign Ethics Handbook of the New York State Advisory Committee on Judicial Ethics (2013 Edition) Clearly states:

“ A judicial candidate may not make a general payment or contribution to a political party or county committee (Matter of Raab, 100 NY2d at 315-16 [“The contribution limitation is intended to ensure that political parties cannot extract contributions from persons seeking nomination for judicial office in exchange for a party endorsement.”]; 22 NYCRR 100.5[A][5]; Opinions 01-21 [Vol. XIX]; 92-97 [Vol. X]; cf. Election Law 17-162).

Nor may the candidate pay for a share of a political party’s headquarters or general campaign mailings, without verifying that the payment was used to cover expenditures for his own campaign as opposed to other candidates’ races or general party needs]; Opinions 01-21 [Vol. XIX] ... [paying more than the candidate’s proportionate share of actual campaign services would constitute an impermissible contribution].”

It is impossible to believe that \$4,000.00 per candidate was used to foster the candidacy of those nine Supreme Court Candidates. It defies logic that the funds donated by nine Supreme Court Candidates would be used against each other for three spots. Moreover, as you are aware two Assembly Districts Slates in Erie County are running unopposed in Erie County and therefore there should be no expense for those races. Thus, the inappropriately requested funds should be returned immediately.

Clearly your request for payment from these nine potential Supreme Court Candidates is inappropriate, cannot be justified under the law and rules and should be refunded immediately not only for the good of Candidates but for the good of the Erie County Democratic Party.

Please notify me at once if you are returning the funds or a detailed explanation of use of those funds and a reason why they are not being returned.

Sincerely,

Frank C. Max
Chairman

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