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March 8, 2017

Prosecutor Grewal:

I am writing to advise you of criminal acts which were committed by Hackensack Mayor John Labrosse, Deputy Mayor Kathleen Canestrino and their public relations consultant, Philip Swibinski. A political campaign brochure was recently mailed to Hackensack voters which prominently featured the two City officials and touted their so-called accomplishments. The officials paid for the mailing out of the city budget using taxpayer funds. Also, the taxpayer-funded political brochure is brazenly displayed on the official City website under "Headlines" – "Billion Dollar Downtown".

This was the fourth questionable mailing by these officials in terms of the appearance of their political nature while being funded by taxpayers. Although residents complained about those mailings at City Council meetings, I did not report them to you because I recognize that the appearance of impropriety is not the same as proof of a crime. The circumstances of this mailing provide proof positive that the mailing was political, not governmental, and requires action from your office to ensure that taxpayers are made whole and that the officials and their consultant are held criminally liable for their actions.

I will describe to you the facts surrounding these offenses. Mayor Labrosse and Deputy Mayor Canestrino have announced that they are running for re-election in this year's May 9<sup>th</sup> non-partisan City Council election in Hackensack. They, along with their two running mates/council colleagues, hired Vision Media as a public relations consultant for the City of Hackensack, paid for with city funds. Philip Swibinski of Vision Media also serves a dual role as their political consultant and has, at times, conducted political press events inside City Hall, which itself is inappropriate. For them, the line has always been blurred.

Vision Media prepared the mailer in question (which I have included) at City expense and supposedly as part of their official governmental role. Yet, the City Manager, who under Hackensack's "strong City Manager" form of government is responsible for overseeing the budget and for all day-to-day activities, and who Canestrino identified at the February 28<sup>th</sup> City Council meeting as being responsible for these types of mailings, stated publicly that he did not "know anything about it."

The mailer clearly had no purpose in terms of notifying the public about any breaking or recent events which would be necessary for the City to publicize. It was a list of items which Labrosse and Canestrino apparently believe are their accomplishments, some which are years old and some which haven't even happened yet. There can be no question, whatsoever, that the mailer is designed exactly the same as a political piece of literature, which it obviously is.

Councilwoman Deborah Keeling-Geddis, a sitting member of the Hackensack City Council, publicly stated that she had no knowledge of how or when the latest mailer was approved, and that it was clear to her that the mailer was a political piece of literature designed to promote the Mayor and Deputy Mayor. At the February 28<sup>th</sup> City Council meeting, she estimated the total cost of the questionable mailings to be \$50,000.

The day after Councilwoman Keeling-Geddis publicly exposed their conduct at a council meeting, Philip Swibinski of Vision Media announced that they were suspending their activities as the city consultant to work solely on the Mayor's re-election campaign, essentially acknowledging that their dual role was inappropriate. Incredibly, Mayor Labrosse has made it clear that if he wins re-election, Vision Media would be placed back on the City payroll, clarifying that their contract was merely temporarily suspended.

Although I believe the above facts make a compelling case beyond any reasonable doubt that the mailing was political while being paid for with taxpayer money, and that Labrosse, Canestrino and Swibinski need to be criminally charged and forced to reimburse the taxpayers, I will now describe the "smoking gun" which, respectfully, demands that action be taken by your office.

Philip Swibinski of Vision Media stated that "Each of these mailings contained important information that the Mayor and Council felt would be of interest to residents..." while Mayor Labrosse specified that "These pieces are paid for by the taxpayers but they are for the taxpayers." Yet, as a result of an Open Public Records Act request, it has been revealed that the list which was paid for by taxpayers and used to distribute the mailer was a *registered voters list* containing numerous items of a personal and political nature.

The list which Swibinski said was comprised of "residents" and which Labrosse said was comprised of "taxpayers" actually consisted solely of registered voters and contained information describing the recipients' age, date of birth, ethnicity, religion, language spoken, income, legislative district, congressional district, political party affiliation and *multi-year voting record*. So, in reality, the list and political mailing which was funded by taxpayers out of the City budget was sent only to voters and was additionally a compilation of political intelligence to enable Labrosse and Canestrino to more effectively target their potential voters during their campaign. No local governmental newsletter or informational mailing would ever delve into all of those identifying characteristics of the recipients.

If, as Swibinski said, the mailings were sent to "residents", each mailer would obviously be addressed to "Resident" and the mailing list itself would simply contain addresses. In fact, I have received some of those in the past. If, as Labrosse said, the mailer was intended for "the taxpayers", it would have been addressed to "Property Owner", and, again, the mailing list would simply contain addresses. I have received some of those as well. *However, it is impossible to send a mailing to registered voters by name, specifically using a registered voters list, compile an extensive amount of personal and political information on each recipient, and then pretend that it is not a political mailing and an establishment of a voter profile database.*

2C:27-12a establishes the crime of corruption of public resources when public resources designated for a specified purpose are used for an unauthorized purpose. Labrosse and Canestrino using their office to authorize payment from city funds for their own political mailing is certainly a violation of that statute. Swibinski clearly conspired with them and effectuated the commission of their crime. Significantly, section e of that statute establishes an inference that the actor knew that the public resource was being used for an unauthorized purpose in cases where the person made a false statement concerning the conduct in question. In the February 15, 2017, northjersey.com quote referenced above, Mayor Labrosse falsely stated that the mailing had been sent to "taxpayers" when he was well aware that the city taxpayer database had not been used, and that a database of registered voters had been used instead. In that same northjersey.com article, Swibinski stated that the mailing had been sent to "residents" even though the voters' profile information list which had been used was in his possession and obtained from him through the City Attorney.

As I'm sure you are aware, the commission of the crime described above also results in the offense of Official Misconduct by virtue of their official public positions. 2C:30-2a makes clear that the unauthorized exercise of their official functions in converting taxpayer funds to their own campaign use is a criminal act.

Furthermore, in addition to having committed the criminal acts described above, the intent and knowledge of their crimes are evident in the attempted cover-up after the fact. When former City Attorney Richard E. Salkin submitted an OPRA request for the information concerning the mailing list for the glossy brochure, the City Clerk denied his request, stating that, "The City does not possess any responsive records...". After Mr. Salkin threatened legal action, the Clerk forwarded his request to City Attorney Steven Kleinman whose handling of the matter was startling, to say the least.

First, Mr. Kleinman was clearly conflicted out of the matter as a result of having been an active part of the legal representation of Vision Media in a previous lawsuit. However, Mr. Kleinman took the position that since he didn't have an ownership interest in the law firm which was representing Vision Media at the time, there is somehow no conflict. Next, Mr. Kleinman stated that "neither the Clerk nor the City has a copy of the record" (which was paid for with taxpayer funds) and that "it would presumably be in the possession of a vendor who is not currently doing any business with the City...". The vendor Kleinman was referring to is Vision Media who has only temporarily stepped aside as a City consultant, is scheduled to be rehired by the City immediately upon the re-election of the Mayor and is currently working for Labrosse and Canestrino as their political consultant. Yet Kleinman implied that Swibinski is somehow unreachable.

After a brief period of time, Mr. Kleinman apparently recognized that the cover-up was failing and that the records would have to be produced. He then turned over 4,883 pages of material to Mr. Salkin in the form of disjointed names, letters and numbers. After a thorough analysis, it was discovered that the information was actually a spreadsheet which had been disassembled by either Vision Media or Mr. Kleinman, and spread out over thousands of pages to make detection of their crime more difficult.

The spreadsheet had been disassembled into 19 blocks of 257 pages each. I have taken the first page from each block and included it in this packet. I have numbered them by hand in the order in which they should appear. If you line them up horizontally in order, you can see all of the identifying characteristics which line up with each registered voter. The lengths these officials went to in their attempt to conceal the information contained in this list was extraordinary. Although I have included only the first page in each of the 19 blocks of information, I have all 4,883 pages should you need them for your investigation.

Although I'm told that some prosecutors might be hesitant to initiate the necessary action in a case like this for fear of appearing to influence the course of a political campaign, I know that could not be true. Giving elected officials a pass to take taxpayer money from a city budget to finance their own re-election campaign is an act which I am certain no prosecutor in New Jersey would ever allow to happen. Their attempted cover-up only confirms their intent and knowledge of their crimes and makes their actions more egregious.

As we all know, exorbitant property taxes and corruption are two of New Jersey's most pressing issues. When elected officials convert taxpayer funds to their own personal or political use, it is imperative that swift and decisive action be taken not only to right the immediate wrong and make taxpayers whole, but to send a clear message to all officials that the appropriate penalties will unquestionably be imposed for those offenses. Attorney General Christopher S. Porrino made that clear yesterday when he announced "zero tolerance for this type of abuse of public office in New Jersey" in regard to an alleged

misappropriation of public resources involving Paterson's Mayor, terming it "old-school public corruption and abuse of power."

I have included all of the supporting documentary proof of the offenses and, of course, am available to you should you have any questions or desire any additional information. I can be reached at 201-805-9090.

Sincerely,

cc: Christopher S. Porrino, Attorney General  
encl.

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March 8, 2017

Attorney General Porrino:

I was heartened to read your comments yesterday in regard to an alleged misappropriation of public resources by a New Jersey Mayor. Like most New Jersey residents, I agree with you that there must be “zero tolerance” for elected officials treating our hard-earned tax dollars as their own.

Unfortunately, we now have proof of that type of conduct in Hackensack. Although our Mayor and Council have engaged in many questionable acts over the past four years, they have avoided attracting the attention of the proper authorities.

They have now been caught red-handed using taxpayer funds from our City budget to finance their re-election campaign. I have provided proof of their crimes to the Bergen County Prosecutor’s Office for their investigation. I was able to gather that proof simply through a resident’s OPRA request and the Mayor’s, Councilpersons’ and public relations consultant’s own statements. There is no question in my mind that, using the lawful authority of his office, the Bergen County Prosecutor will obtain even more conclusive evidence of these, and perhaps, other crimes.

Thank you for your efforts in addressing public corruption in our state and I am optimistic that our new County Prosecutor shares that same commitment. For informational purposes, I have provided you with the same packet of materials which was provided to Bergen County Prosecutor Gurbir S. Grewal.

Sincerely,

cc: Gurbir S. Grewal  
encl.