# Schneiderman Working With JCOPE on Lopez Scandal

Posted on Aug 31, Posted by David Howard King Category City

â€śIf true, the actions of Assemblyman Lopez are reprehensible, and the decision of the Assembly to keep secret the provision of â€‘ and even the existence of â€‘ a settlement agreement was wholly inappropriate and contrary to the public interest. Our office policy requires that agreements of this kind do not include confidentiality provisions. On May 30, 2012, an OAG attorney provided the Assembly's counsel with a copy of a model pre-litigation settlement agreement which included no provision mandating secrecy or confidentiality. â€śO ur office has already been in communication with Ellen Biben, the Executive Director of the Joint Commission on Public Ethics. We have already provided the Commission and the press with copies of all communications with the Assembly in our possession relating to this matter, and stand ready to work with JCOPE to ensure a full and fair investigation.â€ť

BACKGROUND ON OAG ROLE IN EMPLOYMENT LITIGATION

The Office of the Attorney General serves as litigation counsel for the State including state agencies, the Governor, the Comptroller, the Legislature, the Office of Court of Administration, some authorities, and state employees and officers, including members of the legislature. That is, we are the State's trial lawyers, as opposed to the lawyers within agencies and the Legislature who act as general counsel.

We act primarily as defense counsel representing these entities when they are sued. In this matter, because no litigation was initiated, the Office of the Attorney General did not represent the Assembly in its internal employment dispute.

We defend the State, state agencies as well as individual state employees in employment litigation which does not include administrative proceedings, or pre-litigation investigation, or alternative dispute resolution.

In the course of litigation, we analyze whether it is in the best interests of the state to settle matters before trial, taking into account, for instance, saving taxpayer money.

The OAG settlement policy provides that all Settlement Agreements be public in accordance with the principles of Open Government except for compelling reasons, including public safety.

Accordingly, the OAG standard settlement terms do not include confidentiality provisions. Further, our policy is that when defending the state in litigation, we do not enter into any confidential or secret litigation settlements, and we would not view a sexual harassment case as a compelling exemption to this policy.

In employment litigation, clients often request that the terms of the settlement be confidential and we regularly reject such requests based on our policy.

State agencies, including the Legislature, consult with us from time to time on matters where we have expertise such as bankruptcy, employment, and contracts in a non-litigation context, or in anticipation of litigation.

We do not, in our work defending the State:

(1) make agency management or business decisions;

(2) participate in agency internal investigations or ethics determinations;

(3) participate in the internal workings of the Legislature or their proceedings as it relates to employment issues;

(4) negotiate agency agreements with employees outside of the litigation context; nor

(5) represent agencies or employees in administrative proceedings such as the State Division of Human Rights, other than representing ourselves.

Everyone involved in the settlement between the Assembly and Assemblyman Vito Lopez's accusers are now facing major scrutiny . The office of Attorney General Eric Schneiderman had to sign off on the sexual harassment settlement and as such they are also under the lens. In a statement just released by Schneiderman's office the AG says he is cooperating with the Joint Commission on Public Ethics:

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