



BY MAIL AND ELECTRONIC MAIL

September 14, 2016

Eric T. Schneiderman
Office of the Attorney General
The Capitol
Albany, NY 12224-0341

RE: Request for Investigation & Audit of Children's Law Center -- NYS Reg # 060649

Dear Mr Schneiderman

I am the president of the New York Chapter of the Families Civil Rights Union (FCLU), a non-profit organization representing New York families and children. I am also a father-of-two, journalist, and documentary film-maker. First, may I take a moment to applaud your work as Attorney-General for our state.

I am acting on behalf of myself and as a spokesperson for the FCLU and many New York parents who have been a victim of misconduct, malicious and improper actions and waste of public resources by the Children's Law Center (CLC). Thanks to the non-profit status that the Charities Bureau (CB) has granted the CLC, the NY Unified Court System (NYUCS) recently awarded CLC \$65.6 million (see enclosed). The purpose of this grant, which was made illegally, without a competitive tender, was to represent "indigent" children in New York City. Yet the CLC acts with no accountability to any oversight body – and is abusing its power.

We made a formal complaint to the Charities Bureau in a letter sent to them on June 27th of this year. However, we have received no response from the CB, either to the formal complaint of 6/27/2016, or to subsequent emailed enquiries about the status of our request. We are now requesting that the Attorney-General's office initiate a full investigation and audit of CLC, and its directors, and, suspend CLC's charitable status pending the conclusion of that investigation.

The basis for this investigation is the testimony of numerous parents, lawyers, forensic evaluators and psychologists who have witnessed first-hand the corruption in the CLC. These witnesses include the following parents, who are willing to be interviewed by your office: Aleah Holland RN, Mark Sullivan, Erik Little, Edmund Welch, Mark Gerbush, and Newton Hines III. Other parents will testify, following an assurance of anonymity from your organization.

I am also a parent-witness in this matter. Three different CLC attorneys – Dawn Post, Cynthia Lee and Janet Neustaetter -- represented my daughter from February 2014, until the mother and I settled the matter -- over CLC's objections -- on May 24, 2016. The CLC devoted many hundreds of hours of time, and hundreds of thousands of taxpayer dollars, on this case. Their conduct gave numerous insights into their operating procedures.

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There are also a number of lawyers who can provide relevant testimony: Peter Lomtevas Esq, David Schorr Esq, Ivy Cook Esq, Michael Carlin Esq, Saadya Bendelstein Esq, and Andrew Wigler Esq. As an offer of proof that such testimony is relevant, I am attaching a statement by Kimberly Spodek Esq, testifying to 21 different acts of misconduct by CLC director Dawn Post, in the five week period between February 7-March 16, 2014.

Other psychologists and forensic evaluators will also testify, on assurance from your office of anonymity. If you agree to start an investigation, we will provide you with their information.

The AG's office need to investigate and audit CLC, and to remove its charitable status, because the CLC is causing actual harm to thousands of New York children and families, and is misusing its charitable status to waste tens of millions of dollars of tax-payers' money.

In Kings County Family Court, for example, the CLC has leveraged its charitable status to secure an exclusive contract from the Office of Court Administration (OCA) to provide 'attorney-for-the-child' (AFC) services to thousands of children whose lives depend on the judgments of courts under the OCA's jurisdiction. The NYUCS and the OCA also provide further privileges to CLC, including its own office-space within the court-house and its own mailbox. Judges regularly assign CLC to handle activities, such as the issuance of an order for a forensic evaluation, that should only be handled by an unquestionably independent body. This has given the CLC enormous power.

But CLC has taken to promoting its own interests, not that of the "indigent children" it purports to represent. As a matter of policy, CLC has sought to drag out or 'churn' cases as long as possible -- regardless of the harm that is causing thousands of New York families. CLC is a "non-profit law firm" which secured its huge public funding on the basis of the number of cases on its books. The more children it represents, the more money it receives, and the more it can pay its directors. To show how CLC's growth has benefitted its executive director Karen Simmons Esq, documents provided through a FOIL request to the OCA, and enclosed herein, show that her salary has soared. In 2009, Ms Simmons received a \$42,913 salary, but in 2014, she received \$189,296 -- a 441% raise.

How is a salary of \$189,000 a right, proper and cost-effective remuneration for the director of a non-profit purportedly trying to help indigent New York children?

In CLC's annual tax-returns, CLC claims that its "mission" is to "*provide legal services to indigent children*" and that the CLC has "*approximately 10,000 custody and visitation cases on its books.*" The more cases that CLC can get -- and keep -- the more it can ask for from us taxpayers, via the NYUCS. The CLC thus has clear vested interest in 'churning' cases.

In addition, individual CLC attorneys, especially CLC directors Dawn Post and Hilarie Chacker, have used their power to pursue personal campaigns against individual litigants like

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Edmund Welch, Mark Sullivan and Rik Little; and they have accepted offers of professional and financial gain from litigants seeking the CLC's vital support. This is over and above their substantial annual salaries which, according to the enclosed 2014 documents provided to the FCLU by the OCA, were \$110,166 for Dawn Post and \$123,892 for Hilarie Chacker.

The CLC requires oversight, yet none exists, apart from your own power to investigate and withdraw charitable status. I and other citizens have filed numerous complaints against CLC attorneys to the Grievance Committee (which shares an office with the Office of the Attorney for the Child). Not one of these complaints, or the well-evidenced allegations within those complaints, has ever been investigated by the Grievance Committee. Clever CLC lawyers have cocooned themselves into a self-perpetuating apparatus. Money goes into CLC coffers without accountability, because the stated cause of CLC's work – to protect helpless children -- sounds so worthy. There is no oversight, no review and no suspicion that anything is going wrong because the 'law' is involved.

Your office is thus a final resort for oversight.

Acts of misconduct and waste requiring YOUR investigation include:

1. CLC's mission statement, on which its charitable status is based, is to represent "indigent children." Yet it regularly takes on cases where the children are not indigent. In my case, for example, I and the child's mother ended up paying around \$500,000 in legal fees on the case that CLC churned for more than two years. Neither of us is indigent. Indeed, the mother comes from the Ratner and Kunstler families, two of the wealthier families in New York. So why did CLC ever take on our case? The answer is that CLC attorneys like Dawn Post wanted is to curry favor with affluent parents who can provide the CLC and/or individual attorneys with personal advancement and financial benefits. An audit is required of both CLC's accounts, and the private accounts of CLC's directors.

2. CLC has wasted millions of dollars of taxpayers' money in its churning of cases, frivolous actions, and its pursuit of personalized causes. In my case, CLC spent hundreds of hours engaging in communications with attorneys, setting up futile meetings, and writing motion papers. On April 15, 2014, Dawn Post filed a 587-page motion to the Appellate Division, including a 55-page affirmation she had written herself. I have two big boxes of motion-papers all written by CLC attorneys. As part of a general pattern within CLC, Ms Post's conduct has a personalized, prurient nature. This is what is happening in her involvement in Erik Little's case, where she has successfully filed for multiple adjournments, thus delaying any reconciliation between Mr Little and his daughter. The next "court conference" on this matter is not until October. In my case, Ms Post relentlessly and maliciously worked to delay any hearing. One incident took place at a meeting that I had with Ms Post, in the presence of Andrew Wigler Esq and Yolanda Martindale, on 05/13/2014. During this meeting, Ms Post told me, with the same smirk that she directed at me when she saw me in the street or in court, that she had read a manuscript of an unpublished book that I wrote in 2002 - - eight years before Alma's birth. The respondent-mother had provided that document to her without

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my permission. Ms Post told me and Mr Wigler, that "I read every page of the book -- all 650 pages it -- cover to cover". With a salacious smirk, Ms Post described a scene of a sexual nature in the book. I was creeped out by Ms Post telling me this, and shocked that she had wasted public resources by reading a 650-page manuscript with no relevance to the case.

3. CLC obstructs efforts to resolve custody matters through mediation, parenting coordination, or settlement talks. This serves to maintain CLC's position as 'gate-keeper' to its client-children, prevents the parties from settling, and further 'churns' cases – to the detriment of the children and their parents. The CLC deliberately antagonizes parties to further its own financial interests. In my case, Dawn Post blocked moves to enter parenting coordination with FamilyKind even though such talks were ordered by the court, and even though the forensic evaluator had recommended we take this step. Cynthia Lee then tried to block a settlement agreement reached by me and the mother. On May 13, 2016, CLC attorney, Ms Lee refused to participate in a conference with the judge to finalize settlement terms, on the grounds that there was an attorney in the court room who had sued her in Federal Court ten years before. On May 24th, 2016, Ms Lee refused to add her signature to a Stipulation of Settlement that I and the mother had signed, and formally objected to it in court. Although the judge dismissed her objections and so-ordered the Agreement, CLC's intentions to perpetuate the case ad infinitum were clear. These actions are in violation of the AFC Standards:

"The attorney should participate in settlement negotiations to seek expeditious resolution of the case, keeping in mind the effect of continuances and delays on the child. The attorney should use suitable mediation resources and, where appropriate, ask the Court to authorize the use of conferencing or mediation to assist in reaching a resolution."
(AFC Standards, ¶ C-6, p.119).

CLC has failed to live up to these standards. As a pattern and practice, CLC turns high-conflict cases in to nuclear-conflict cases – which is completely contrary to the principles on which CLC's charitable status are based.

4. CLC has conspired in the illegal eavesdropping and wiretapping of its child-clients' private telephone and skype calls. In my case, Ms Post inadvertently provided conclusive evidence of this practice by trying to submit such recordings to the forensic examiner. Although the judge denied her motion to submit these materials, and removed the CLC from handling the forensic evaluation, Ms Post's application clearly showed she had been complicit in such illegal recordings. The act of eavesdropping is illegal, as established by CPLR 4506; I.K. v M.K., 194 Misc. 2d 608, 753 N.Y.S.2d 828 (Sup Ct., NY Cnty, 2003). Under Penal Law 250.00 and 250.05, it constitutes a separate felony each and every time someone records a call, or has been an accomplice to such an act. It is a code of practice at CLC to condone, promote and practise illegal eavesdropping, and your office needs to act to halt this abuse of the civil and legal rights of New York parents.

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5. CLC has been negligent in protecting children's interests, safety and rights. In the ongoing case of Edmund Welch, this has been demonstrated by Dawn Post's support for the mother having their child all of the time, and having sole legal custody, even though the mother is facing jail for an assault on an ACS worker, and even after ACS reports have shown that the mother has made false allegations of sexual abuse against the father. Mr Welch's civil rights organization, Disgusted Dads, has criticized Ms Post in the media for her actions. Because of that, Ms Post continues to retaliate against Mr Welch by misusing her power to deny Mr Welch any time with his father, and blocking his access to medical and educational records. In my case, CLC's negligence was demonstrated by Dawn Post's failure to act when the mother stopped court-ordered phone calls between me and my daughter. Ms Post also failed to act when the mother blocked me from access to my daughter's health records, and sought to withhold my daughter from me at a birthday event for my son.

6. CLC has misused its authority in the New York family courts to create a network of crony professionals dependent on referrals by CLC. This has now become a racket. Because the courts follow CLC's recommendations, judges appoint Forensic Examiners and child psychologists according to CLC's instruction. These professionals receive huge amounts of money from the parents. In my case, CLC recommended an FE, Dr Sophie Michelakou, to whom we had to pay \$20,000. According to Dr Michelakou, CLC has successfully recommended 30 other cases for her review, including that of Mark Gerbush. This means that Dr Michelakou has received an estimated \$600,000 thanks to CLC referrals. The same is true with CLC-referred child psychologists. In my case, CLC successfully applied to the court to appoint Dr Muriel Frischer to provide therapy to my child, plus collateral sessions with both of our parents. We ended up paying over \$25,000 to this therapist. This cronyistic system of patronage is open to kickbacks, and inclines the FE or psychologist to support the position of the CLC attorney, not that of the child.

7. CLC has improperly acted as a material witness in numerous cases, in violation of both the official AFC guidelines, and Rule 3.7 of the New York Rules of Professional Conduct (NYRPC), known as the 'witness-advocate rule'. In all of the cases cited above (Holland, Little, Sullivan, Gerbush et al), the CLC has testified about matters from the state of mind of a child, to events that took place before the CLC had even been assigned. In my case, Cynthia Lee opined that I was a "flight risk", without any evidence to back up such opinions, and despite the fact I am a US citizen, with a son in Brooklyn public school, and a production company in New York. Ms Lee did this prevent my daughter from visiting her paternal grandparents in the UK, even though the Forensic Evaluator had strongly recommended that this visit take place. Rule 3.7 of the NYRPC -- the "advocate-witness rule" -- forbids attorneys to act as a witness, because of the conflict of interest therein. The AFC Standards under which Ms Post was operating are very clear: "*The attorney for the child should not be a witness at any time during the proceeding or action in any subsequent proceeding by the same parties*" (Administrative Handbook for Attorneys for Children, p. 3).

8. CLC has repeatedly fabricated or mis-represented the testimony of witnesses it has mis-reported to the courts. In my case, Dawn Post mis-reported interviews she conducted with eight

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separate witnesses in the case, and all eight are willing to go on the record to affirm to her perjury. In the case of registered nurse Aleah Holland, CLC staff-attorney Genevieve Tahang-Behan Esq. incited Ms Holland to file false allegations of abuse against her ex-husband, in order to remove legal custody from him. When she refused to do this, the CLC retaliated and took the husband's "side" against her.

9. CLC has borne false witness to the Court about events it claims to have 'eye-witnessed'. This includes false testimony about what its child-clients have said, which has caused enormous emotional distress to parents and children.

10. As a pattern and practice, CLC has willfully omitted facts and information that it should have relayed to the family courts, and to the psychotherapists of its client-children. In my case, Ms Post willfully withheld information regarding the view of the child's psychotherapist, Dr Frischer, that it was in the child's best interests to resume alternate-weekend parenting time with her father, and to be permitted to travel to see her paternal family in the UK. We have numerous other examples of this to show your office, once an investigation is begun.

11. CLC has used its false testimony and evidence omissions to make improper recommendations that have hurt numerous children. In the case of Mark Sullivan, this has included CLC director Hilarie Chacker supporting a motion for the father's incarceration for alleged non-payment of child-support, even though Mr Sullivan is disabled and indigent, and even though imprisonment would severely damage Mr Sullivan's relationship with his daughter, and his capacity to pay future child support. The very act of making such recommendations is a reason for CLC's sanctioning, since it violates the AFC's Standards:

The attorney should never assume the role of an expert witness. A child's attorney who submits a report and recommendation opens the possibility that he or she will or should be called as a witness.. (AFC Standards, p. 120, C7)

12. CLC has regularly ignored or contravened the family courts' orders. In the case of Erik Little, whose child Ms Post "represents", Mr Little has been unable to send a message of love to his daughter, whom he has not seen for seven years. The letters have been hidden in CLC's office, because Ms Post has disobeyed a court order for Ms Post to relay messages and gifts to the child. In my case, Ms Post ignored a court order that no one was to make recordings of the child, by encouraging the mother to surreptitiously record skype calls between me and the child, and then trying to present those recordings to the court.

13. CLC has interfered with parents' role in children's education, in violation of the NY Education Act. This has included instances of CLC attorneys maligning parents to the teachers and principals at the schools of their client-child, and blocking school records to that parent.

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14. CLC has interfered with the psycho-therapeutic processes of its client-children, to pursue its own litigation ends. This has included appointing psychotherapists to a case, just because a therapist shares their own beliefs. By information and belief, some CLC attorneys have received kickbacks from therapists for lucrative referrals.

15. CLC has improperly subjected its young clients to unnecessary physical examinations, psychiatric procedures, and interrogations. In my case, this was demonstrated by Ms Post insisting that my two-year old daughter undergo an invasive physical examination, over and above objections from both myself and the child's mother. Additionally, Ms Post and Ms Lee forced my daughter to come out of school early to come to the CLC offices and undergo numerous interrogations by a panel of attorneys and social-workers. My daughter was profoundly disturbed by these "interviews".

16. CLC has failed to report a conflict of interest with its former employees, when they are representing one of their parents, and has improperly colluded and co-counseled with those former employees. In my case, the CLC failed to disclose that John Yacos Esq, the attorney for the mother, had worked at the CLC for many years. As Ms Spodek states, the CLC's Dawn Post had "an obvious relationship and collusion with the mother's attorney." 219. The Hon. Carol Sherman, the Supervising Judge at the Bronx Family Court, stated NY Law's position on this matter, when ruling on S.A. v. S.K., 40 Misc.3d 1241(A) (2013):

An AFC must avoid not only the fact, but even the appearance, of representing conflicting interests" (Cardinale v. Golinello, 43 N.Y.2d 288 [1977]). "[T]he lawyer may not place himself in a position where a conflicting interest may, even inadvertently, affect, or give the appearance of affecting, the obligations of the professional" (Matter of Kelly, 23 N.Y.2d 368 [1968]).

In my case, CLC did most of the work that Mr Yacos would have otherwise have had to do on behalf of the respondent-mother: from making its recommendations to the court for increasing the mother's parenting time; to researching the 'case-law' to support that recommendation; to filing papers in the Appellate Division; to preparing the mother's documents for submission to the forensic evaluator. On every single significant matter in this case, Ms Post worked with Mr Yacos to promote the interests not of the child, but of the mother. To corroborate this, I have detailed invoices from Mr Yacos showing the extensive time that he spent talking to Ms Post and Ms Lee.

17. CLC has discriminated on grounds of gender and nationality. The vast majority of CLC's staff attorneys are female, and have regularly applied extreme prejudice against fathers. In Ms Spodek's statement she states that "[Dawn Post] stated prejudice against client because he is from England." 272. Discrimination on the grounds of gender and nationality is illegal under New York Human Rights law §296.

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18. CLC has maliciously harassed parents and their counsel, including personal insults, and social media stalking. In my case, Ms Post intruded on a holiday lunch I was having with my daughter; she cyber-stalked me on Facebook, including making a 'friend request' to me, during the case; and carried out an aggressive and unwarranted interrogation of my family and friends. She also sought to bully me into making a "false confession" in return for her support for more time between me and my daughter. 264. At a meeting on 05/15/2014, Ms Post indicated that she would be willing to 'trade' a confession of 'bad faith' -- even if it was a false confession -- in exchange for a staged restoration of parenting time, until the schedule returned to what it was under the suspended Custody Agreement. When I first understood what Ms Post was proposing, I was both appalled and terrified. 266. For Ms Post to make this offer to me was certainly not one of 'good faith.' CLC should not have the unmonitored power to play kingmaker in this way with other children's lives.

19. CLC improperly handles and willfully delays the issue of orders for Forensic Evaluations (FE). For eight very long months, starting on Jan 31 2014, the Kings County Family Court entrusted Ms Post with the simple administrative task of starting a forensic evaluation. In October 2014, when the FE had still not begun, the court removed that responsibility from Ms Post and CLC. The delay caused enormous emotional and financial damage to me. It hurt my daughter too, since it prevented the court seeing the report of the evaluator. Since the court stated it would not modify its 'temporary order' until the FE was completed, that delay prevented Alma from having meaningful, continuous time with me, her brother, and her paternal family. As the AFC Standards states: *Delay is endemic to the Family Court process, but delay is especially harmful to children.*" (AFC Standards, B1 Commentary, p.114).

20. As alleged by Kimberly Spodek esq, in the attached statement, the CLC has succeeded in establishing ex parte relations with numerous judges' court attorneys, and judges themselves. This is in violation of the AFC Standards: "*The attorney for the child is not an arm of the court and should not engage in ex parte communications with the court.*" (AFC Standards, B1 Commentary, p.114). The corruption is already very deep.

In our call for you to investigate all these allegations, and to suspend CLC's charitable status, I and the FCLU offer all our research and resources. However, we do not have the authority to investigate and sanction that you have. The complaints we have made to the CLC itself, and our attempts to meet with them to discuss those allegations, have been stone-walled by Executive Director Karen Simmons.

The People of New York, via the OCA, the CB and your own office, have entrusted CLC with a very privileged role -- as well as a lot of money, power and moral authority. The position of the AFC comes with it a presumption that CLC attorneys will act with honesty, independence, and a genuine commitment to "*diligently represent the best interests of the child.*" The court system should have no reason to doubt the integrity of an AFC and thus be heavily inclined to follow the guidance of the AFC. The problem here is that the CLC is not being honest with the courts or the

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CB. The CLC is not following the best interests of New York's children, but of its own staff and directors.

Since the State of New York has entrusted the CLC with such power, moral authority and public money, it should hold the CLC to the highest standards of ethical and financial accountability. This requirement is made even more essential, in the wake of revelations about corruption and cronyism that emerged from the Moreland Commission, and from the recent convictions of Dean Skelos and Sheldon Silver.

It is now urgently in the public's interest that the Attorney-General's offices investigate and audits the CLC, and that you take measures to ensure that publicly funded "attorneys for the child" operate in an accountable, responsible manner.

Please respond in writing with a complaint number, assign this matter to your chief of investigations, and advise me of a date and time for an interview. If you would require any further information, please do not hesitate to get in touch.

Thank you for your assistance in this matter.

Yours very truly

SEBASTIAN DOGGART

President, New York Families Civil Liberties Union

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