

Special Term
At an IAS, Part ~~II~~ of the Supreme Court of the State of New York, held in and for the County of Suffolk, located at 400 Carleton Avenue, Central Islip, New York on the 31 day of August, 2010.

HON. JERRY GARGUILO

PRESENT: _____ J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

MOTION/CROSS/OSC'
FEE/PAID *Waived*
Judith A. Pascale
Suffolk County Clerk *(Signature)*

-----X
In the Matter of the Application of

SUFFOLK COUNTY ETHICS COMMISSION,

Index No. 10- *30161*

Petitioner,

**ORDER TO
SHOW CAUSE**

to compel compliance with a subpoena duly issued and served on

CHERYL A. FELICE,

Respondent.


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Upon the annexed verified petition of the Suffolk County Ethics Commission, the affirmation of Steven G. Leventhal dated August 30, 2010, and on all pleadings and proceedings herein, it is hereby

ORDERED that respondent show cause before this Court at an IAS Term, Part _____, to be held at the Courthouse located at one Court Street, Riverhead, New York, on September 14, 2, 2010 at 9:30 A.M., or as soon thereafter as counsel may be heard, why an order should not be made and entered compelling Cheryl A. Felice to appear before the Suffolk County Ethics Commission at a hearing to be held at the Office of the County Attorney, H. Lee Dennison Building, 100 Veterans Memorial Highway, 6th Floor, Hauppauge, New York on September 22, 2010 at 4:00 P.M., and at any adjourned or recessed date of the

JSC

hearing, to give testimony and produce documents as set forth in the subpoena issued by the Suffolk County Ethics Commission on March 4, 2010 (the "Subpoena"), for \$50.00 in costs pursuant to CPLR §2308(b), and for such other and further relief that the Court deems proper.

 ORDERED that respondent be, and is hereby directed to produce, upon the return date hereof, and on any adjourned date, all records in her possession or control that are responsive to the Subpoena.

 ORDERED, THAT SUFFICIENT CASUE APPEARING THEREFOR, let service of this Order and the papers upon which it is granted, be deemed due, timely and sufficient if made upon the respondent on or before September 7, 2010 by any method permitted pursuant to CPLR §308 or, at the option of petitioner, by overnight delivery, signature confirmation waived, upon respondent's counsel, Gary Silverman, Esq., O'Dwyer & Bernstein, LLP, at his law office.

Dated: Aug. 31, 2010

ENTER:


J.S.C.
JERRY GARGUILO

GRANTED
AUG 31 2010
Judith A. Pappale
CLERK OF SUFFOLK COUNTY

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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Index No. 10-30161

VERIFIED PETITION

purchased 8/31/10

Petitioner Suffolk County Ethics Commission by its attorneys Leventhal and Sliney,
LLP, alleges:

1. At all times mentioned, petitioner, Suffolk County Ethics Commission (the “Commission”), was and is a county government commission established and existing pursuant to the laws of the a County of Suffolk, authorized, among other things, to investigate alleged violations of local laws pertaining to ethics.
2. The Commission is authorized by law to hear, try and determine matters within its jurisdiction.
3. The Commission is empowered to issue subpoenas in connection with the matters that it is authorized to hear, try and determine. *See*, CPLR §2302(a).
4. Matters under investigation by the Commission are confidential. *See*, Suffolk County Charter §C30-4C(1).
5. At all times mentioned, respondent Cheryl A. Felice was, and still is, the president of the Suffolk County Association of Municipal Employees, Inc. (the “AME”).

6. Petitioner is presently investigating a sworn complaint alleging a possible violation of Article XXX (Code of Ethics) of the Suffolk County Administrative Code, sections A30-4 (Disclosure of confidential information) and A30-5 (Restrictions on future employment) based on the alleged engagement of a former County employee by the AME, and the rendering of post employment services by the former County employee to the AME.

7. An ongoing hearing before the Commission is scheduled to continue at 4:00 PM on September 22, 2010 at the Office of the County Attorney, H. Lee Dennison Building, 100 Veterans Memorial Highway, 6th Floor, Hauppauge, New York.

8. The testimony of respondent is material and necessary in order to ascertain all of the facts and circumstances concerning the alleged engagement of the former County employee by the AME, and the rendering of post employment services by the former County employee to the AME.

9. On March 4, 2010, the Commission issued a subpoena (the "Subpoena") commanding respondent to appear before the Commission on March 23, 2010 at the Office of the County Attorney, H. Lee Dennison Building, 100 Veterans Memorial Highway, 6th Floor, Hauppauge, New York at 4:00 P.M, and at any adjourned or recessed date of the hearing, to be examined regarding the Commission's investigation.

10. The Subpoena further required that respondent produce "any and all records referring or relating to... [the former County employee] in the possession of the AME or... [respondent] including but not limited to communications (including emails), responses, submissions, invoices, bills, and payments made to or received from said... [former County employee], during the period June 1, 2007 through the date [t]hereof."

11. Respondent failed and refused to obey the Subpoena, did not appear before the Commission to give testimony, and did not produce all documents responsive to the Subpoena.


12. The testimony and documents of respondent are material and relevant to the Commission's investigation and the failure to receive the testimony and documents will seriously prejudice the Commission in the conducting of its investigation.

13. No previous application has been made for the relief requested herein.

WHEREFORE, petitioner demands judgment and an order compelling Cheryl A. Felice to appear before the Suffolk County Ethics Commission at a hearing to be held at the Office of the County Attorney, H. Lee Dennison Building, 100 Veterans Memorial Highway, 6th Floor, Hauppauge, New York on September 22, 2010 at 4:00 P.M., and at any adjourned or recessed date of the hearing, to give testimony and produce documents as set forth in the Subpoena, for \$50.00 in costs pursuant to CPLR §2308(b), and for such other and further relief that the Court deems proper.

Dated: Roslyn, New York
August 30, 2010

LEVENTHAL AND SLINEY, LLP
Attorneys for Petitioner

By: 
Steven G. Leventhal
15 Remsen Avenue
Roslyn, New York 11576
(516) 484-5440

VERIFICATION

STATE OF NEW YORK)
COUNTY OF NASSAU) ss:

STEVEN G. LEVENTHAL, being duly sworn, deposes and says:

I am a member of the firm of Leventhal and Sliney, LLP, attorneys for the petitioner in the within special proceeding.


I have read the foregoing petition and know the contents thereof; the same is true to my own knowledge except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true based on my review of records maintained by the Suffolk County Ethics Commission.

My office is located within the County of Nassau. I make this verification because the petitioners are not within the county in which I maintain my office.



Steven G. Leventhal

Sworn to before me this
30th day of August, 2010



Notary Public, State of New York

Christine H. Price
Notary Public, State of New York
No. 01PR6173903
Qualified in Nassau County
Commission Expires September 4, 2011