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November 6, 2014

New York State Joint Commission on Public Ethics
540 Broadway
Albany, New York 12207
Attn: Director of Investigations and Enforcement, Pei Pei Cheng-de Castro

Re: Tracy R. Kinn
JCOPE 14-089

RECEIVED NOV - 7 2014

Dear Ms. Cheng-de Castro:

In furtherance of our telephone conversation of several weeks ago, I am formally advising you of this office's representation of Ms. Tracy Kinn with regard to certain allegations and accusations against her as contained within your correspondence to Ms. Kinn, dated October 8, 2014.

Your communication sets forth in pertinent part, references to certain alleged potential violations by Ms. Kinn of the provisions of Sections 73 & 74 of the New York State Public Officers Law in connection with the acceptance by Ms. Kinn of certain items of value from Veteran Charles Matie and the alleged creation of a conflict of interest thereby violating the above cited provisions of the New York State Public Officers Law.

Your missive cites the findings and recommendations of the Office of the Inspector General of the State of New York contained within their investigative report of August, 2014, concerning possible conflicts of interest at the Division of Veterans Affairs.

Said report focused on certain factual circumstances relative to Ms. Kinn and one other DVA Counselor and referred their Conclusions of your office. Their conclusions, based in part on investigative questioning under intimidating conditions without counsel present, stated that Ms. Kinn had a close personal relationship with the Veteran in question, that she accepted gifts, and other items of substantial value from said Veteran, that she utilized some of the Veteran's resources for her own personal benefit,

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that DVA lacked an operative policy relative to the acceptance by Counselors of gifts and other items of value, that despite knowledge of Ms. Kinn, activities based on her own personal disclosure, DVA took no action to intervene, follow-up or otherwise supervise Ms. Kinn relative to the alleged activities and that DVA acknowledged its multiple deficiencies with regard to scenarios of this nature. New policies relative to client gifts and potential conflicts of interest on the part of Counselors have since been implemented.

It is interesting to note that the Inspector General's own press release specifically cites responsibility in part to DVA due to faulty conflict of interest policy and inadequate supervision.

Ms. Kinn specifically and emphatically denies any wrongdoing relative to this close family friend known for years before her representation of him on Veterans' claims.

The undersigned is attaching Ms. Kinn's written response to these accusations of wrongdoing, which outlines her activities with regard to Mr. Matie (the Veteran).

At no time did Ms. Kinn conceal her activities relative to Mr. Matie and at no time was she required to do anything by DVA except to have certain personal documents revoked. DVA was not designated as the Veteran's POA for VA purposes at the time that the alleged items of value were received by Ms. Kinn.

Additionally, Ms. Kinn did not know she was named beneficiary of the Veteran's estate or appointed his executor until after his demise.

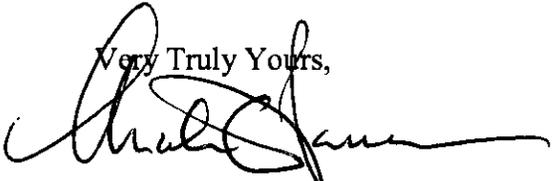
With all due respect, it is urged no further investigation or punitive action be pursued or taken against Ms. Kinn due to the factual and chronological events involved herein and that the Veteran was a close personal friend long before any VA representation.

Ms. Kinn is now fully aware of, and in compliance with all newly implemented policies relative to accepting items of value and the potential for the appearance of a conflict of interest. The lack of operative policies and effective supervision in the past on the part of the NYSDVA should not now be held against Ms. Kinn especially in view of the unique circumstances that existed.

On behalf of my client, I am hopeful that we can resolve this matter on an expeditious basis. Please accept my thanks for the courtesies you have extended and I

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look forward to speaking with either you or a representative of your office to open a meaningful dialogue as soon as possible.

Very Truly Yours,

MARK G. FARRELL, ESQ.

MGF:glv
Encl.
CC: Tracy Kinn

Tracy Kinn

Reference: JCOPE 14-089, Letter dated 10/8/2014

RECEIVED NOV - 7 2014

Dear NYS Joint Commission on Public Ethics:

I have received the above letter of allegations against me for potential violations of Public Officers Law. I would appreciate your consideration of my response to these allegations.

I am a 23 year retired disabled veteran of the United States Marine Corp. The core values of the Marine Corp taught me the traits that I am most proud of. Integrity, Values, Ethics, and Respect. These traits have drilled into me as a child, during my military service, and now in the most gratifying occupation I could ever have.

I met Charles Matie (Slim), through a mutual friend in 1998. We immediately had a bond of friendship due to the fact that I had no family in the area and Slim had recently lost his mother in 1993 and had no immediate family. Over the next 12 years we became family. We shared a lot of common interests and likes. We enjoyed gardening at each other's home, we attended Masonic, American Legion and Award Dinners. He helped me through the horrible loss of my grandmother in 2000. On Sundays we went to church and enjoyed Sunday drives. He helped me study and do papers while in college. We shared stories our military experiences, him growing up in Pennsylvania, and his self made Auto Parts business. He enjoyed holidays and weekends with my husband and I in our home.

I was hired by the New York State Division of Veterans Affairs (NYSDVA) in August of 2010. At the time of my employment I signed a required form that stated did not have any legal or fiduciary relationship with any veteran or family member, which I did not. There was not a policy in NYSDVA prohibiting me from assisting friends or family members post my employment.

As a State Veteran Counselor with NY DVA it is my duty to advise, prepare, and present a veterans claim to the Department of Veterans Affairs on the Federal level. I am not the decision maker in this process and have no influence for them to grant or deny a veteran's claims for benefits.

NYSDVA's numerous Division directors (George Basher, Jim McDonnough, and William Kraus) and NYSDVA legal counsel (William Brennan) were all fully aware of my relationship with Slim from the beginning. After several years it was recommended that Slim revoke his Power of Attorney with NYSDVA and this severed legal responsibility between NYSDVA and Slim.

Over the years Slims health worsened to the point that he was unable to do some of the things he most enjoyed. That was when he asked me to take his car. This was 5 years after I assisted him with his VA claim.

When Slim passed away on May 18, 2010, I was completely unaware of his final arrangements and wishes. I followed the legal system with the Surrogates Court which found Slim competent to make the decisions he made. I informed my chain of command that I was Executer of Slims Will soon after his death. I received no written guidance from NYSDVA. The only guidance I did receive is when my immediate supervisor advised me that when he spoke to NYSDVA Legal counsel (William Brennan) Bill stated because NYSDVA did not hold POA at the time of Slims death there was no requirement for NYSDVA to take any action.

On a very busy afternoon while sitting in my office assisting a veteran with benefits the Inspector General's Office had 2 investigators standing in the hall waiting to speak to me. When asked what they needed they stated they had a few questions for me. I asked if I needed council they stated I had to answer their questions. It was an intimidating process as I had no time to pause, reflect on circumstances and answer their questions. I felt they were there to gain damaging evidence without the opportunity to explain me and Slims' relationship and that produced inconsistencies in my responses.

There is further a complaint that I used a Joint account to pay a number of personal expenses. Slim was a very proud man and never accepted anything for nothing. In Slims later years physical household chores were necessary. Slim would insist on squaring off for these chores. He considered it like a bartering system. This is the reason for my some of my person expenses being paid.

With regards to Inspector General's News Release dated 8/12/2014 regarding a claim for dependents. The report stated there was no proof of me receiving any form from the veteran to submit to the Veterans Affairs. Therefore if I never received the form I could not submit the form.

I ask you to consider this response in your decision as I did not knowingly and intentionally violate Public Officers Law.

Sincerely,



Tracy Kinn