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October 7, 2015

VIA HAND DELIVERY

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

Re: JCOPE-13-168

Dear Ms. Cheng-de Castro:

As you know, we represent Former Assemblyman Dennis Gabryszak (“Mr. Gabryszak”) in the referenced New York State Joint Commission on Public Ethics (“Commission”) matter. We write in response to your September 23, 2015 letter regarding Mr. Gabryszak’s refusal to appear and testify before the Commission. To expand upon our previous explanation, Mr. Gabryszak respectfully declines the Commission’s request to testify on the basis of the Fifth and Fourteenth Amendments to the U.S. Constitution and the comparable provision of the New York State Constitution. More specifically, these constitutional privileges permit anyone to refuse to testify—even in a civil proceeding—if that testimony might be used against the witness in certain future proceedings. In addition, it would be inappropriate for the Commission to draw any negative inference regarding Mr. Gabryszak’s refusal to testify, given that he has simply invoked his constitutional rights, on the advice of counsel, in an attempt to protect against the use of his testimony in other proceedings in ways that cannot currently be predicted. Accordingly, we respectfully request that no such inference be made.

Very truly yours,

GREENBERG TRAUIG, LLP



Mark F. Glaser

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cc: Terrence M. Connors, Esq.
Connors & Vilardo, LLP

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