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February 16, 2021

Hon. Letitia James  
Attorney General of the State of New York  
Office of the Attorney General  
State Capitol  
Albany, New York 12224-0341

Dear Attorney General James:

On behalf of the Senate Minority Conference — as well as thousands of grieving families across our State — I am calling upon you to immediately broaden the scale and scope of your office's investigation into COVID-19 related nursing home deaths that have occurred in New York State.

The exemplary work that your office has already conducted on this matter has led to a series of events — and shocking new revelations — that clearly raise the appearance of potential wrongdoing on the part of the Governor's Office. Specifically, I am requesting an extensive, immediate review of all available transcripts, recordings and related materials involving the meeting of February 10 that was held between Members of the Senate and Assembly Majorities and top staff members from the Cuomo Administration.

It has been widely reported that this meeting included a clearly stated admission from the Secretary to the Governor that accurate information on nursing home deaths was willfully and deliberately withheld from the public, impacted families, and the State Legislature for the express purpose of obstructing, thwarting, or otherwise misleading Federal investigators. This intentional deception not only went on for many months, but was compounded by the Administration's extensive, ongoing series of press conferences and interviews that disseminated "facts" and data that they knew to be completely false.

To reiterate, this crucial public health information was shared with millions of people both within New York State and across the nation, on a regular, ongoing basis, even though it was known by Administration officials to be false. What's more, the critically important **intent** of this ongoing deception is now clear — it was to obstruct, mislead and prevent Federal investigators from doing their jobs. This obviously has profound moral and ethical implications for this Administration,

but it also raises the appearance of serious wrongdoing, potentially criminal in nature. The lengthy duration — and significant scale — of this ongoing effort to deceive Federal investigators (and the public) also raises the very real prospect of a violation of criminal conspiracy statutes. This is in addition to what appear to be potential violations of obstruction of justice statutes, the Public Officers law, and the Freedom of Information Law.

I fully recognize that the State Legislature has the Constitutionally-prescribed power to provide oversight and, when necessary, conduct investigations into potential wrongdoing or abuses of power in state government. Regrettably, the three sitting Senators who could have led inquiries into this matter in their respective roles as Chairs of the Senate Health, Aging, and Investigations and Government Operations Committees, were all participants of the February 10th meeting that is now in question. This conflict, which is clear and obviously disqualifying, further strengthens my conviction that a thorough investigation by your office is essential.

If you determine that there are any preexisting relationships or potential conflicts that might preclude you from conducting the type of independent, impartial investigation that New Yorkers deserve and that this serious matter clearly demands, I would request that you immediately appoint an independent Special Prosecutor.

Pending an investigation, or the appointment of a Special Prosecutor, I am also asking that you immediately direct both the State Department of Health (DOH) and the Executive Chamber to preserve and retain any and all documents, records, data and communications, from March 1, 2020 to the present, that are related to the March 25 DOH directive to nursing homes, as well as the subsequent counting and public disclosure of COVID-related deaths in New York State.

I appreciate your prompt consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert G. Ort". The signature is stylized and cursive, with a prominent initial "R" and a flourish at the end.

Robert G. Ort  
NYS Senate Minority Leader