


NIAGARA COUNTY LEGISLATURE

FROM: Legislator John D. Ceretto DATE: 06/01/10 RESOLUTION # IL-035-10

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	_____	Approved: Ayes <u>15</u> Abs. _____ Noes <u>4</u>
	_____	_____	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

RESOLUTION URGING ATTORNEY GENERAL ANDREW M. CUOMO TO INVESTIGATE THE FIDUCIARY MISFEASANCE OF COMPTROLLER THOMAS P. DINAPOLI IN FUNCTIONING AS SOLE TRUSTEE OF THE NEW YORK STATE COMMON RETIREMENT FUND AND ADMINISTRATOR OF THE NEW YORK STATE AND LOCAL RETIREMENT SYSTEM

WHEREAS, Thomas P. DiNapoli of Great Neck Plaza, Long Island, was appointed New York State Comptroller on February 7, 2007, with the overwhelming support of the New York State Assembly, and

WHEREAS, according to the web page of the New York State Office of the Comptroller, Mr. DiNapoli's principle function is described thus: "As fiduciary, the Comptroller acts in the best interests of the [New York State and Local Retirement] System's members and retirees. The Comptroller is the sole trustee of the Common Retirement Fund (valued at over \$110.9 billion as of March 31, 2009). He also ensures that the more than 150 different benefit programs offered by NYSLRS are managed properly and effectively", and

WHEREAS, in the introduction to the 2009 Comprehensive Annual Financial Report, Mr. DiNapoli states, "Like all investors, the Fund has seen the value of its assets decline as a result of the downturn in the global financial markets. However, while the Fund's value has declined, our well-diversified portfolio has helped protect assets better than most public retirement pension funds. Significantly, the Fund has outperformed most of our peers during the ongoing economic downturn and, most importantly, at no time have benefits been in jeopardy. In the past year, the Fund returned 26.38 percent", and

WHEREAS, Mr. DiNapoli has, despite these boasts, increased the cost to Niagara County's taxpayers, of mandatory contributions to this state-mandated retirement fund by \$3.7 million, or 77 percent this year versus last year, and

WHEREAS, such an increase in cost to taxpayers is inconsistent with a fund that Mr. DiNapoli has touted as producing market growth of 26.38 percent, and

WHEREAS, such an inconsistency highlights either misfeasance or malfeasance in the conduct of Mr. DiNapoli's primary fiduciary role, now, therefore, be it


RESOLVED, that the Legislature of the County of Niagara does hereby instruct the Chairman of the Legislature to issue a letter to the Honorable Andrew M. Cuomo, Attorney General of the State of New York, advising Mr. Cuomo of our concerns and the inconsistencies in Mr. DiNapoli's legally-mandated Comprehensive Annual Financial Report and those increases costs which he has burdened the taxpayers of the County of Niagara, and elsewhere, with, and urging Mr. Cuomo to initiate an investigation into Mr. DiNapoli's conduct of office, and specifically his actions in his roles as sole trustee of the New York State Common Retirement Fund and administrator of the New York State and Local Retirement System, and be it further

RESOLVED, that the Legislature of the County of Niagara does hereby instruct the Chairman of the Legislature to affix his signature and the Seal of the County of Niagara to said letter, and be it further

RESOLVED, that the Legislature of the County of Niagara does hereby instruct the Chairman of the Legislature to carry out provisions of RESOLVED Clauses 1 and 2, above, in consultation with the County Attorney, ensuring that all appropriate legal charges are addressed in said letter, and be it further

RESOLVED, that the Legislature of the County of Niagara does hereby instruct the Chairman of the Legislature to issue a reasonable date by which the County wishes to receive a response from the Attorney General, and to correspond as needed with the Attorney General to prompt action on this referral, and be it further

RESOLVED that the County of Niagara shall forward copies of this Resolution and the letter directed in RESOLVED Clauses, above, to all parties deemed necessary and proper in consultation with the County Attorney.



LEGISLATOR JOHN D. CERETTO