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February 21, 2025

The Honorable Letitia James  
Office of the New York State Attorney General  
The Capitol  
Albany NY 12224-0341

Madame Attorney General,

Over a century ago, Supreme Court Justice Louis Brandeis observed that “Justice can be attained only by a careful regard for fundamental facts, since justice is but truth in action.”<sup>1</sup> As you know, achieving justice is far more complicated, yet it remains fair to state that justice cannot be achieved when facts are ignored, or distorted.

It is with the foregoing in mind, that the undersigned are forced to respond to a specious and intemperate letter that was recently sent to your office in the name of five members of the State Assembly, dated February 3, 2025 (“the letter”).

As an exercise in fiction, perhaps the letter’s warped depiction on the undersigned could have some merit, with its evocative use of language such as “shadow insurance”<sup>2</sup> despite its unfounded accusations of racism and blasé attempts to dismiss a growing number of federal racketeering lawsuits out of hand, since they have not been able to obtain dismissals in court.

Whether as creative writing or merely unfounded opinion, the letter manages to both baselessly disparage not one but two New York-licensed insurance carriers rated A- Excellent<sup>3</sup> and ignore Bermuda’s well-known financial transparency and comprehensive regulatory system<sup>4</sup> which includes tax treaties with the United States<sup>5</sup> in order to speculate about ‘shadows’ where there is only sunshine.<sup>6</sup>

Unfortunately, the letter bearing the name of Assemblywoman Latrice Walker does not self-identify as creative writing despite bearing all of its hallmarks.

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<sup>1</sup> *The Works of Justice Brandeis*, Solomon Goldman, ed., Henry Schuman, New York, 1953 at p. 114.

<sup>2</sup> In marked contrast to the murky world of litigation loan funding, it is difficult to imagine any shadows within the heavily regulated insurance and reinsurance industries in New York State or Bermuda.

<sup>3</sup> Being Accredited Insurance and Clear Blue Insurance, who may take issue with the letter’s baseless assertions in their own rights.

<sup>4</sup> Even a cursory internet search would belie the letter’s baseless assertions, which unfairly cast aspersions on this small but successful Caribbean island nation that managed to emerge from a colonial past to stand prominently on the international stage. *See, e.g.*, <https://www.gov.bm/bermudas-transparent-and-top-tier-reputation>, last accessed February 20, 2025. Furthermore, as the National Association of Insurance Commissioners has explained, “the U.S. has developed a system of reinsurance regulation that has led to the development of an open, but secure, reinsurance market where most of the reinsurance premiums are reinsured outside the country.” <https://content.naic.org/insurance-topics/reinsurance>, last accessed February 20, 2025.

<sup>5</sup> Such as the Foreign Account Tax Compliance Act (“FATCA”), which allows Bermudan financial institutions to report directly to the US Internal Revenue Service. <https://home.treasury.gov/system/files/131/FATCA-Agreement-Bermuda-12-19-2013.pdf>, last accessed February 20, 2025.

<sup>6</sup> We must observe that false allegations of financial instability on the part of reinsurers could be libelous as well, were they not clearly unfounded opinion at best.

Unfortunately, unlike the warped reality depicted in the letter, New York State is in fact facing what has been dubbed a “Fraudemic” of nearly unbelievable proportions.

The fact is that New York City is ranked nationally as the second-worst ‘Judicial Hellhole,’ in which “The City’s courts are a playground for fraudsters and opportunistic trial lawyers, while honest New Yorkers foot the bill”<sup>7</sup> to the tune of an estimated \$2,320 per New Yorker annually.

The fact is that one of the formerly preeminent New York City plaintiff firms has sought to walk away from a staggering 200-300 personal injury actions it commenced, retroactively blaming their ‘referral source.’<sup>8</sup>

The fact is that among that firm’s dropped ‘clients’ was a non-English speaking man who never worked on the job site where he was allegedly injured and never received medical treatment, yet was provided a check from a litigation funding company working in conjunction with ‘his’ attorneys and others.<sup>9</sup>

The fact is that the investigation on the part of Tradesman Program Managers arose because despite the construction downturn caused by the pandemic shutdown and phased restart, alleged construction-related claims increased at a mathematically unsound pace.

The fact is that Tradesman and a growing number of insurance-related entities that include reinsurers, investigators, general and third-party managing agencies have been forced to scrutinize millions of documents to a degree that the State’s agencies could not accomplish with their budgets and personnel, with the full foreknowledge that success in counteracting the Fraudemic will cause others to reenter the New York market and dilute their market shares. The fact is that attorney-funded OSHA courses are not necessarily training their attendees on site safety, but can and have been turned into illicit recruiting platforms for largely undocumented workers who can later be preyed upon and compelled to bring fraudulent actions from which they themselves will see little money.

The fact is that the same as-yet unidentified individuals and organization(s) who appear to have ghost-written the letter to which we are responding have made obscene profits for themselves, their medical accomplices, unscrupulous litigation lending companies, and what appears to be multiple transnational organized criminal enterprises.

The fact is that the costs of the Fraudemic are borne by everyone but those who are perpetrating it.

The undocumented workers who are preyed upon bear the costs, including within their very bodies following unnecessary but lucrative surgeries.

The legitimately injured workers bear the costs, since medical resources are tied up by scores of fraudulent claims.

The construction industry bears the costs, particularly the smaller and largely family-owned companies whose already slim profit margins can be destroyed – along with decades of hard effort – when faced with fraudulent claims.

The local insurance industry - for whom no tears are expected to be shed - bears the costs, since it is doomed to choose between raising premiums in order to remain even marginally profitable and shutting down its New York offerings as some major carriers have done.

But it is the people of the State of New York who ultimately and collectively bear these costs.

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<sup>7</sup> Tiger Joyce, president of the American Tort Reform Association, “New York City Climbs to No. 2 ‘Judicial Hellhole®’ Amid Rampant ‘Fraudemic’”, December 10, 2024. Available online at <https://www.atra.org/2024/12/10/nyc-climbs-to-no2-judicial-hellhole-amid-rampant-fraudemic/>, last accessed February 18, 2025.

<sup>8</sup> Kristin Thorne, “Law firm seeks to walk away from hundreds of lawsuits after Eyewitness News investigation,” *ABCNews*, September 6, 2024. Available online at <https://abc7ny.com/post/nyc-law-firm-subin-seeks-walk-away-hundreds-lawsuits-after-eyewitness-news-investigation/15274485/>, last accessed February 18, 2025.

<sup>9</sup> Id.

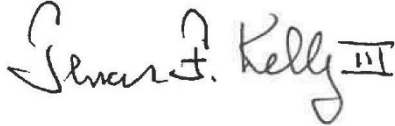
Attached are copies of the lengthy and detailed Racketeer Influenced and Corrupt Organizations lawsuits that we have filed to date. Unlike those behind the previous letter sent to your office, we do not need to hide behind either empty rhetoric or politicians whose campaigns we may have funded.

Regardless, we must conclude by addressing the letter that was publicly sent to your office once more. The right to petition elected officials is enshrined in our societal history for good reason. But for government to work properly, there must be transparency. The general public deserves to know if a small but exceedingly wealthy group wrote communications ostensibly sent in the names of elected officials, and we trust that you will take this opportunity to investigate authorship of the letter in all its aspects.

We welcome the opportunity to meet with your office, with the Assemblypersons whose names appear on the letter, and with any other elected official, much as we have already been meeting with law enforcement and related agency personnel.

We trust that you will see through the distortions of the letter and pursue justice for all of New York State.

Sincerely,

A handwritten signature in black ink that reads "Thomas F. Kelly, III". The signature is written in a cursive, slightly stylized font. The "T" is large and loops around the "h". The "F" is simple. "Kelly" is written in a clear cursive, and "III" is written in a smaller, more formal script at the end.

THOMAS F. KELLY, III

TFK/kb

Enclosures

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