

## **NJ ATTORNEY GENERAL'S OFFICE IN THE FLORIO ADMINISTRATION (1990-93)**

### **DIVISION OF LAW**

On March 14, 1990, Governor James Florio signed Executive Order 6 (attachment 1), which called for the consolidation and transfer of all executive branch attorneys providing legal advice and representation to State agencies into the NJ Attorney General's Office. In accordance with Executive Order 6, forty attorneys working at the NJ Department of Environmental Protection (DEP) were re-assigned to the NJ Attorney General's Office in August 1990. The DEP attorneys became deputies attorney general and joined the more than fifty deputies already assigned to work on environmental matters in the Attorney General's Office. The transfer of legal staff from the DEP to the Attorney General's Office created the largest environmental law firm in the nation. More significantly, it resulted in the designation of specific sections within the Attorney General's Office - environmental enforcement, environmental permitting, and hazardous waste litigation - that matched DEP Commissioner Scott Weiner's re-alignment of the department, thereby allowing close coordination between regulatory and legal staff on all matters requiring legal advice, support and representation.

### **DIVISION OF CRIMINAL JUSTICE**

In 1993, NJ Attorney General Robert Del Tufo and Division of Criminal Justice Director Robert Winter elevated the environmental section to bureau status within the Division of Criminal Justice by establishing the Environmental Crimes Bureau. The Environmental Crimes Bureau was staffed by forty attorneys and state investigators who were responsible for conducting investigations and prosecutions of environmental crimes committed throughout New Jersey, coordinating environmental enforcement cases with the 21 county prosecutor offices, supporting the Office of Environmental Prosecutor and collecting evidence in response to beach wash-ups, hazardous waste spills and dumping incidents. Attachment 2 is a copy of a 1993 report on environmental cases handled by the Division of Criminal Justice during Governor Florio's administration.

With regard to these cases, it should be noted that the convictions and sentences for HUB defendants Michael Harvan and Richard Bassi were upheld on appeal. Thereafter, Michael Harvan filed an application for post-conviction relief, which was denied. The decision denying him relief was also upheld on appeal. Larry Angelo's conviction and five year jail sentence was affirmed on appeal. After serving approximately 6 months of a five year jail term, Ira Liebman was released into the New Jersey Intensive Supervision Probation program. He returned to jail to serve the remainder of his sentence, after it was shown that he violated the terms of his probation. All of these matters were prosecuted by the Division of Criminal Justice. Finally, Evelyn Berman Frank, whose ocean dumping was originally handled by the Office of the Environmental Prosecutor, received a three year jail sentence after the Environmental Crimes

Bureau proved that she violated the terms of her probation. The sentence was affirmed on appeal.

(Submitted by former First Assistant Attorney General Edward M. Neafsey)

**State of New Jersey  
Executive Order #6****Governor James J. Florio**[Return to EO Index](#)

WHEREAS, the Attorney General is generally charged by law to be the sole legal adviser, attorney or counsel for all officers, departments, boards, bodies, commissions and instrumentalities of State Government, except as specifically provided by statute, and to represent them in all proceedings or actions of any kind which may be brought for or against them in any court in this State and to interpret for them all constitutions, statutes, laws and legal documents, to inspect and approve contracts and titles and otherwise control their legal activities, to act as their exclusive legal representative, and to attend generally to all legal matters in which the State or any officer, department, board, body, commission or instrumentality of the State Government is a party or in which its rights or interests are involved; and

WHEREAS, all officers, departments, boards, bodies, commissions and instrumentalities of State Government are expressly prohibited by law from employing any person to act as attorney, counsel, solicitor, legal assistant or other legal adviser or for the purpose of giving legal advice or rendering legal services, except as specifically authorized by statute; and

WHEREAS, the Attorney General has the discretionary authority to assign an attorney to serve in any legal capacity for any officer, or in any department or instrumentality of the State Government whenever, in the judgment of the Attorney General, such an assignment will contribute to the efficiency and effective provision of legal services; and

WHEREAS, no special counsel shall be employed for the State or by any officer, department, board, body, commission, or instrumentality of the State Government, except by authority of the Attorney General, and then only with the approval of the Governor; and

WHEREAS, these requirements are intended to provide competent, objective legal advice and representation to all of State Government subject to the supervision and coordination of the Attorney General, and to ensure the attainment of a consistent and uniform legal position in furtherance of implementing the policies of the Governor; and

WHEREAS, despite these requirements, numerous attorneys have been employed outside of the Department of Law and Public Safety, many of whom may provide legal advice and representation which, by law, is required to be provided by the Attorney General; and

WHEREAS, I have determined that it is in the public interest to reaffirm, unequivocally, the role of the Attorney General as the chief legal adviser for the State of New Jersey and to require strict adherence to the requirements outlined above;

NOW, THEREFORE, I JAMES J. FLORIO, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. At no time shall any person employed by any officer, department, board, body, commission or instrumentality of State Government ("State entity"), including "in but not

of" agencies, act as, or cause any person to believe he or she is acting as, an attorney, counsel, solicitor, legal assistant or other legal adviser to any State entity unless that person is an assistant or deputy attorney general or other attorney authorized to do so by the Attorney General; nor shall any such person, other than an assistant or deputy attorney general or other attorney authorized to do so by the Attorney General, utilize or be denominated by any title such as "attorney," "counsel," "solicitor," "legal assistant" or "legal adviser."

2. In addition, without in any way limiting the provisions of Paragraph 1 hereof, the following shall apply:

a. The Attorney General shall have the sole authority to provide legal advice of any nature whatsoever to any State entity;

b. The Attorney General shall have the sole authority to provide advice as to the legality of all regulations or legislation, or amendments thereto;

c. The Attorney General shall be solely responsible for and shall have exclusive control over the conduct of all judicial and administrative litigation involving any State entity.

3. Consistent with the requirements of law and the intent and spirit of this Executive Order, attorneys may be employed by State entities, but they may not perform any function assigned to the Attorney General by law or by this Executive Order. Such attorneys may do the following:

a. provide guidance as to the nature and substance of the various statutes and regulations governing the responsibilities of the employing State entity, but only as said statutes and regulations are interpreted by the Attorney General;

b. participate in negotiations on behalf of the employing entity, but only to the extent that any non-lawyer employee may so participate and not in a manner which could cause any other person to believe that he or she is acting as an attorney for such entity;

c. appear for the employing entity in any proceeding in which an attorney is not required, but not in a manner which would cause any other person to believe that he or she is acting as an attorney for such entity, provided, however, that such attorneys may represent a State entity in a matter before the Office of Administrative Law but only with the prior written consent of the Attorney General;

d. draft proposed regulations and proposed legislation, and amendments thereto, in accordance with the policy objectives of the employing entity, subject to the provisions of Paragraph 2b above, and reduce to writing interim and final agency orders, subject to the review of the Attorney General.

4. On and after the effective date of this Executive Order, no State entity shall create or fill any position or employ any person for the purpose of performing any duty assigned to the Attorney General by law or by this Executive Order.

5. The Attorney General shall promptly undertake an assessment of those persons and/or positions outside the Department of Law and Public Safety who are or have been

performing duties assigned to the Attorney General by law or by this Executive Order, and shall take whatever remedial action the Attorney General deems necessary or desirable, including, without limitation, steps (1) to designate such persons and/or positions for transfer to the Department of Law and Public Safety or (2), with regard to those persons and/or positions not designated for transfer, to require the employing State entity to restrict their duties to comply with the terms of this Executive Order. Such actions need not all be made simultaneously. Within a reasonable period of time from the date of each such transfer designation, the persons and/or positions so designated shall be transferred, along with the concomitant resources, clerical and support staff and the funding associated therewith, to the Department of Law and Public Safety, where they shall serve in such capacity and perform such duties as may be designated by the Attorney General.

6. At any time in the future, whenever the Attorney General determines that any person and/or position employed by any State entity is performing duties assigned to the Attorney General by law or by this Executive Order, the Attorney General shall take such action as is necessary to ensure compliance with this Executive Order.

7. The Commissioner of the Department of Personnel and the Director of the Division of Budget and Accounting in the Department of Treasury are directed to effectuate the prompt transfer of positions, resources and funding required by this Executive Order as identified by the Attorney General.

8. The purpose of this Executive Order is the consolidation within the Department of Law and Public Safety of all attorneys giving legal advice and representation to State entities and the resources necessary to support them. An attorney and/or position shall be subject to transfer under this Executive Order if a portion of the duties performed are among those assigned to the Attorney General by law or by this Executive Order. Any person or position performing the duties of a paralegal or legal assistant, and appropriate support personnel, shall be subject to the provisions of this Executive Order, as appropriate, and shall be subject to transfer in accordance with the procedures set forth herein, if so determined by the Attorney General.

9. All State entities are hereby directed to cooperate with and to support fully the Attorney General in the discharge of the responsibilities and obligations conferred by law and this Executive Order, including the duty to respond to requests for documents or information requested by the Attorney General.

10. The provisions of this Executive Order shall not apply to attorneys employed the Legislative or Judicial Branches of State Government, the Office of the Governor or any State entity which has the specific statutory authority to employ separate legal advisers, but only to the extent so permitted.

11. Within 12 months from the date of this Executive Order, the Attorney General shall report to the Governor on the status of the implementation of this Executive Order and whether any further action is needed to assist in the implementation thereof.

12. This Order shall take effect immediately.

GIVEN, under my hand and seal  
this 14th day of March in the Year  
of Our Lord, one thousand nine hundred  
and ninety, and of the Independence

of the United States, the two hundred  
and fourteenth.

/s/ James J. Florio  
GOVERNOR

Attest:

/s/ John A. Sweeney  
Counsel to the Governor

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