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July 11, 2013

The Honorable Kathleen Kane
Attorney General of Pennsylvania
16th Floor, Strawberry Square
Harrisburg, PA 17120

Dear Attorney General Kane:

We are troubled by your announcement, as the Commonwealth's Chief Law Enforcement Officer and an important part of the executive branch of government, that you have made the unilateral decision to refuse to defend a duly enacted Pennsylvania statutory law. We have no doubt that opponents of the law will cheer your decision. Nor do we doubt that supporters of the law will decry it. All of that is immaterial to the fundamental question, which is whether you will choose to ignore your constitutional and statutory obligation to defend Pennsylvania laws.

This question is not unique to our time. In an article in this week's Wall Street Journal, a former federal appellate judge noted that:

This matter—the limits of executive power—has deep historical roots. During the period of royal absolutism, English monarchs asserted a right to dispense with parliamentary statutes they disliked. King James II's use of the prerogative was a key grievance that led to the Glorious Revolution of 1688. The very first provision of the English Bill of Rights of 1689—the most important precursor to the U.S. Constitution—declared that "the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of parliament, is illegal."

In Federalist No. 47, James Madison warned:

The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.

Your announcement, and its implied arrogation of both executive AND legislative authority at the expense of the people, troubles us deeply. There are any number of Pennsylvania statutes with which we may personally disagree. Nevertheless, we do not ignore them to suit our political preference.

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Pennsylvania's Constitution, at Article IV, § 4.1, specifically states that the Attorney General "shall exercise such powers and perform such duties as may be imposed by law."

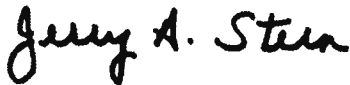
Section 204 of the Commonwealth Attorneys Act clearly provides:

It shall be the duty of the Attorney General to uphold and defend the constitutionality of all statutes so as to prevent their suspension or abrogation in the absence of a controlling decision by a court of competent jurisdiction.

Quis custodiet ipsos custodes? Who shall watch the watchers themselves? When executive branch officials refuse to defend Commonwealth law despite the clear duties imposed by both the Pennsylvania Constitution and controlling statutes, the fundamental nature of the American experiment in representative democracy is called into question.

We would simply urge you to reconsider your decision to refuse to fulfill the duties of the office to which you were elected.

Sincerely,



Representative Jerry Stern
80th Legislative District



Representative Mike Turzai
28th Legislative District



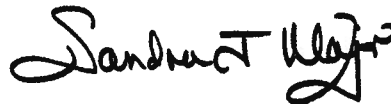
Representative Paul Clymer
145th Legislative District



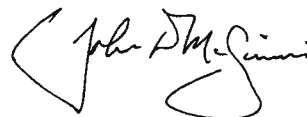
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cc: The Honorable Tom Corbett, Governor