

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

WILLIAM GILMAN,

Plaintiff/Counterclaim Defendant,

**No. 11 Civ 5843 (JPO)
ECF Case**

v.

**ELIOT SPITZER and THE SLATE GROUP,
LLC,**

Defendants/Counterclaimants.

**DECLARATION OF JAY WARD BROWN IN SUPPORT OF
DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO DISMISS
DEFENDANTS' COUNTERCLAIM**

Jay Ward Brown, under 28 U.S.C. § 1746, declares as follows:

1. I am a member of the law firm of Levine Sullivan Koch & Schulz, LLP, counsel for Defendants/Counterclaimants Eliot Spitzer and The Slate Group, LLC in the above-captioned action. I submit this declaration in support of Defendants' Memorandum in Opposition to Plaintiff's Motion to Dismiss Defendants' Counterclaim, dated December 13, 2011, primarily to place before the court copies of certain documents referred to therein. With respect to the documents attached hereto as Exhibits 1-11, each is a true and correct copy of a document produced to my law firm by the State of New York in response to a request filed under the New York State Freedom of Information Law that sought, *inter alia*, documents related to any investigation of Plaintiff William Gilman by the New York State Department of Insurance. On this basis, I am informed and believe, and therefore aver, that such documents are true and correct copies of portions of the official administrative record in proceedings before or by the

Department of Insurance and that the documents are what they purport to be, as more specifically described below.

2. Attached hereto as Exhibit 1 is a true and correct copy of a portion of the administrative record that purports to be a letter dated October 20, 2004 from the Department of Insurance to K. Padgett, Marsh & McLennan Cos. [NYDOI/Gilman-00200].

3. Attached hereto as Exhibit 2 is a true and correct copy of portion of the administrative record that purports to be the 2006 License Renewal Questionnaire [NYDOI/Gilman-00126].

4. Attached hereto as Exhibit 3 is a true and correct copy of a portion of the administrative record that purports to be a letter dated October 19, 2006 from the Department of Insurance to W. Gilman [NYDOI/Gilman-00001-03].

5. Attached hereto as Exhibit 4 are true and correct copies of portions of the administrative record that purport to be letters dated June 4, 2007, September 24, 2007, February 1, 2008, February 26, 2008, May 12, 2008, and January 18, 2011 from the Department of Insurance to counsel to W. Gilman, R. Spinogatti [NYDOI/Gilman-00026, 30, 35, 40, 125, 129].

6. Attached hereto as Exhibit 5 is a true and correct copy of a portion of the administrative record that purports to be an excerpt from the April 17, 2008 hearing transcript in *People v. Gilman*, Indictment No. 4800-05 [NYDOI/Gilman-00115].

7. Attached hereto as Exhibit 6 is a true and correct copy of a portion of the administrative record that purports to be an excerpt from the April 23, 2008 hearing transcript in *People v Gilman*, Indictment No. 4800-05 [NYDOI/Gilman-00123].

8. Attached hereto as Exhibit 7 is a true and correct copy of a portion of the administrative record that purports to be an excerpt from the April 17, 2008 hearing transcript in *People v. Gilman*, Indictment No. 4800-05 [NYDOI/Gilman-00102-03].

9. Attached hereto as Exhibit 8 is a true and correct copy of a portion of the administrative record that purports to be a letter dated June 18, 2008 from the Department of Insurance to counsel to W. Gilman, R. Spinogatti [NYDOI/Gilman-00373].

10. Attached hereto as Exhibit 9 is a true and correct copy of a portion of the administrative record that purports to be a letter dated June 26, 2088 from R. Spinogatti to the Department of Insurance [NYDOI/Gilman-00128].

11. Attached hereto as Exhibit 10 is a true and correct copy of a portion of the administrative record that purports to be a letter dated January 28, 2011 from the Department of Insurance to counsel to W. Gilman, R. Spinogatti [NYDOI/Gilman-00135].

12. Attached hereto as Exhibit 11 is a true and correct copy of a portion of the administrative record that purports to be a letter dated February 8, 2011 from the Department of Insurance to counsel to W. Gilman, R. Spinogatti [NYDOI/Gilman-00199].

13. Attached hereto as Exhibit 12 is a true and correct copy of a letter dated July 14, 1992, from Assemblyman William Bianchi to then-Governor Mario M. Cuomo.

14. Attached hereto as Exhibit 13 is a true and correct copy of an excerpt from the New York Senate Debate Transcripts, 1992 Chapter 767, Statement of Senator Marchi.

15. Attached hereto as Exhibit 14 is a true and correct copy of *Adelphi University v. Committee to Save Adelphi*, N.Y.L.J., Feb. 6, 1997 (N.Y. Sup. Ct. Nassau Cty. 1997).

16. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the transcript of the December 2, 2011 conference held in this matter.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on this 13th day of December 2011.

s/Jay Ward Brown
Jay Ward Brown

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Declaration of Jay Ward Brown was served via the Court's CM/ECF system this 13th day of December 2011 upon the following:

Jeffrey L. Liddle
James W. Halter
LIDDLE & ROBINSON, L.L.P.
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New York, NY 10022
Counsel for Plaintiff/Counterclaim Defendant

s/Jay Ward Brown
Jay Ward Brown