

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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CARL E. PERSON,

Plaintiff,

-against-

STATE OF NEW YORK, GOVERNOR GEORGE E.
PATAKI, ATTORNEY GENERAL ELIOT SPITZER,
NEW YORK STATE RACING AND WAGERING:
BOARD, NEW YORK LOTTERY, CITY OF NEW:
YORK, MAYOR MICHAEL R. BLOOMBERG, NEW:
YORK CITY REGIONAL OFF-TRACK BETTING:
CORPORATION, and BUSINESS INTEGRITY:
COMMISSION,

Defendants.
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Index No.: 112563/2005

**AFFIRMATION OF
LEWIS A. POLISHOOK
IN SUPPORT OF
MOTION TO DISMISS
THE COMPLAINT
AS AGAINST THE
STATE DEFENDANTS**

LEWIS A. POLISHOOK, an attorney admitted to practice before the Courts of this State, hereby affirms under the penalties of perjury, pursuant to CPLR 2106, that the following is true and correct:

1. I am an Assistant Attorney General in the Office of Eliot Spitzer, Attorney General of the State of New York, defendant pro se and attorney for defendants State of New York, Governor Pataki, New York State Racing and Wagering Board, and New York State Division of the Lottery (collectively with the Attorney General, the "State Defendants") in the above-captioned action. I have personal knowledge of the facts set out in this affirmation, which I submit in support of the motion of to dismiss the complaint in the above-captioned action, with prejudice, in its entirety, as against the State Defendants.

2. A copy of plaintiff's complaint in the above-captioned action, including the exhibit thereto, is annexed to this affirmation as Exhibit A.

WHEREFORE, it is respectfully requested that the Court grant the State Defendants' motion to dismiss the complaint in its entirety as against the State Defendants.

Dated: New York, New York
December 14, 2005

LEWIS A. POLISHOOK