

from home → [DOD]

Tues 7/17  
≈ 4:30 - 5ish

- sexual harassment  
cpt, came via Bill  
Collins, then Carolyn  
2 staffers ...

- may have been prior  
cpt vs. Vito ... it  
was settled ... but it's  
confid'l so CK can't  
disclose ...

letter says 7-17  
but to committee  
to commit

---

agmt that if Vito comes  
in live, Carolyn shouldn't be  
in room — shd be me to  
avoid any presence by  
majority counsel's aff

---

atty-client privileged telecon  
b/w DOD + AH

Wed 8/1/12 - page 1 of notes

11:53ish - 12:05ish

Carolyn Kearns

Mintzer called her yesterday evening - wants to talk to me about the investigation

We agree - I need to call him → set up intro logistics so can go fdr if needed  
→ tell him VL rep by GBLT request for extension

to ck ofct + back 12:20ish?  
~~12:20ish~~ - 2

Disc w/ CK 12:?? - almost 2

any st # cplt vs member

→ Policy ~~III~~ IV. A. last sentence  
no other ref, so, by implication,  
only waived (?) to extent necessary  
to conduct investigation

→ standard motion made at  
beg of Ethics Comm mtg  
(II on agenda) (this  
motion has been used since 1986)  
(sop - disapproval, most employment settings)

→ runs to ~~all~~ both parties pending  
investig  $\epsilon$

→ to all if no violation finding

→ if violation found, runs to cplt  
does not run to violator

→ if settlement, still runs to complainant  
?? what about to alleged violator?

• we agree, depends on what  
stage of investig # 2 (investig  
vs post-finding/remedy)

(outline of how we worked through theoretical/legal  
basis for confidentiality issues)

prior  
DOD stmt to committee: Carolyn might be a fact witness  
I am therefore going to use Att

ck + I agree - stay with this explain for now

- as intake offices

- ~~██████~~ • as person authorized to access back records, required to be kept for 7 yrs

cleaner for her to not be present (use GBL as big bad wolf)  
and for minutes to reflect her absence

- no problem w/ ck wrq any new info
- problem is w/ Q's members may ask her

- ck as resource for procedure only

TMW → agenda

- don't add item for: emp/personnel issues separate from investig
- me to discuss w/ DOD raising early to get off table

8/1/12

2:15-2:20

Sheryl/Reick

see more detailed notes stapled to copy of their request letters

DOD on 8/1/12

2:25 - 2:35

- ① read him the letter + added the telcon w/ Sheryl Reich - his reaction is: that's ridiculous
- ② his inclination is to give them to the 16th to respond + schedule mtg for 16th  
Give them to 9th or 10th to tell us how they're going to respond  
Have me + Kevin Engel interview witnesses before 8/16, so Comm will have VL response and our investg report on 8/16 and can make decision on 8/16
- ③ brief rundown of why ~~that~~ Carolyn + I decided cleaner not to have her at mtg  
His only concern is CK abil to tell Calill why prior investg's he brings up as models are distinguishable  
~~Brief discuss~~  
He will call Carolyn to discuss ↖ when

8/1/12

2:55 - 3:05

Kevin Mintzer

possible interviews by me + Kevin Engel of both, possibly next week (info to get; <sup>precisely who KE works for; I said, so far</sup> as I know, Assembl minority)

if to be done, we can do in his offices

He will call clients, find out if they are willing to ~~be~~ be interviewed - neither he nor they thought there would necessarily have to be interviews (tho' he realized possibility) plus letters

his concern is that they not have to do an interview and then have to testify at a hearing - I don't think that will happen, but can't guarantee, depending on response we get from alleged harasser - his position is that intro + testimony just to complain of s.H. wd be unduly burdensome.

We agree - this is all still just a possibility - I will try to get back to him by Thurs pm but certainly by Friday re whether Assembly wants to interview his clients

4-4:15

Carolyn - make sure my authority  
to write letters, do investg/make decisions re who  
to interview, etc  
→ is to act ~~is~~ on approval on chair + ranker  
(so not coming back to full comm for every detail)

2111 binds  
a BL list + we  
can copy, hole punch, hand out

binders are kept by course of bkwn  
meetings

my discussions w/ Mintzer

his concern  
re mult interviews -  
so may he shd wait til  
get ~~the~~ response +  
push for earlier  
response

7/19 Complainants

- ① [REDACTED] advised that member will be told today re/ her complaint & that using accrued leave on payroll.
- arranging to get check back from member office
  - looking to schedule committee mtg as early as next week. Important to get something in writing

Give her #'s for Suzanne Gold & EAP

- ② [REDACTED] advised that member will be told that you will be using accrued leave on payroll.
- looking to schedule committee mtg as early as next week, imp to get something in writing.

Give her #'s for Suzanne Gold & EAP.

Respondent

BC advised Lopez lawyer. - Provided them w/ copy of policy. Info re/ Standing Committee → investigating  
Complainants using accrued leave. On payroll.

Just retained - need time to be prepared.

7-24-12 Call Acty - Kevin Nutzer -

- deposition 4m. - returned call.

I relayed:

• Arsy Standing Comm on Ethics & Guidance  
Chair O'Donnell ✓

• Mtg scheduled for Fri am.  
Final mtg public  
subject matter - not  
notice safe - motion to conduct  
mtg in exec session ✓

• Take allegations & confid. seriously  
as much as possible  
while conducting it ✓

• Member has been advised that  
complaint interpreted - no detail  
except name. Will get copy of written  
complaint & have opportunity to respond.

• Clients remain on payroll, using  
accrued leave. EAP available

asked for  
amount of  
accrued leave

• Important to have something in writing  
from clients for Friday's mtg.

will consider  
and get back to  
next day  
or two

• Expect full cooperation from your clients  
All are expected to cooperate in any  
SH investigation.

understand

• Consider any specific requests re/ confidentiality  
incl in relation to disciplinary action (thank you)

• A rel contact → only through him - other counsel?  
email?

• policy / § 73-CPL

yes - phone or email

km@mintzerfirm.com



7-25-12 Kevin called. will send letter by close of  
business tomorrow. they will cooperate with  
the ~~process~~ process. They want to  
continue to work for the Assembly, not for  
Members however. He will send me their  
resumes.

THE LAW OFFICE OF  
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July 26, 2012

VIA EMAIL  
CONFIDENTIAL SUBMISSION FOR THE NEW YORK STATE ASSEMBLY  
COMMITTEE ON ETHICS AND GUIDANCE

Carolyn Kearns, Esq.  
Deputy Counsel to the Majority  
New York State Assembly  
645 Madison Avenue, 5th Floor  
Albany, New York 12248

Re: [REDACTED] and [REDACTED]

Dear Ms. Kearns:

As you know, I represent [REDACTED] and [REDACTED] two current employees of the Assembly, in connection with their complaints of sexual harassment against Assemblymember Vito Lopez. In advance of the anticipated meeting of the Assembly's Committee on Ethics and Guidance (the "Committee") on Friday, July 27, 2012, you have asked that we provide a written statement concerning the complaints of [REDACTED] and [REDACTED] (collectively, "Complainants"). In order to accommodate this request and because Complainants wish to cooperate with the Committee, I am providing this summary of [REDACTED] and [REDACTED] complaints, including illustrative examples of Assemblymember Lopez's sexually harassing conduct.<sup>1</sup>

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<sup>1</sup> This letter is not intended to be an exhaustive account of each incident of sexual harassment that [REDACTED] and [REDACTED] experienced.

I. Background of the Complainants

██████████ who is 26 years old, grew up in Kingston and Woodstock, New York. She received her undergraduate degree in Political Science and English in 2008 from the University at Buffalo. ██████████ father is a career public servant who retired in 2010 as the Director of Emergency Preparedness of the New York State Department of Health. Based on her father's example, ██████████ has had public service aspirations for as long as she can remember. Immediately prior to working for Assemblymember Lopez, ██████████ worked for more than two years in Albany as a Legislative Aide for District Council 37. ██████████ greatly enjoyed her job with DC 37, but her immediate professional goal was to obtain a position with the New York State Legislature so that she could gain government experience and contribute more directly to the lawmaking process. Therefore, when ██████████ received an employment offer from Assemblymember Lopez, she resigned her DC 37 position and moved from Albany to Brooklyn. ██████████ began to work for the Assembly as a Legislative Aide on April 16, 2012.

██████████ who is 24 years old, grew up in Brooklyn, New York. In 2010, she received her undergraduate degree in Political Science from Bard College in Annandale-on-Hudson, New York. ██████████ has been interested in government and politics since middle school and aspires to one day be elected to public office to represent and serve her fellow New Yorkers. ██████████ has previously held relevant internships with the Legal Services Corporation and in the office of a New York City Council Member. While searching for a full-time government position following her graduation from college, ██████████ has held a few administrative positions in addition to working for her mother's interior design business in Brooklyn. In April 2012, she accepted Assemblymember Lopez's offer to become a Legislative Aide in his Brooklyn office. She began work for the Assembly on April 17, 2012.

██████████ and ██████████ are young women who should be on the path to successful public service careers. They are intelligent, hard working, and idealistic. Neither of them has ever been involved in any kind of legal dispute, nor have they ever had any previous occasion to complain of sexual harassment or discrimination in the workplace. Complainants began to work for the Assembly with great enthusiasm and a willingness to serve Assemblymember Lopez and the people of New York State.

II. Assemblymember Lopez's Sexual Harassment of Complainants

Soon after Complainants began to work for Assemblymember Lopez, it became clear to them that he did not observe normal professional boundaries. Not long after that, Mr. Lopez's conduct deteriorated into egregious sexual harassment. In the approximately three months that they have worked for the Assembly, Mr. Lopez has repeatedly made inappropriate comments to both ██████████ and ██████████ about their physical appearance, their bodies, their attire, and their private relationships. Mr. Lopez has repeatedly made unwelcome sexual

overtures to both [REDACTED] and [REDACTED]. Mr. Lopez has repeatedly made inappropriate physical contact with both [REDACTED] and [REDACTED]. And Mr. Lopez has used his position as a public official and employer to demand that [REDACTED] and [REDACTED] accept, and even welcome, his outrageous behavior in order to keep their jobs.

Although [REDACTED] and [REDACTED] found Mr. Lopez's behavior to be offensive and demeaning, he repeatedly forced [REDACTED] and [REDACTED] to communicate to him that they cared for and admired him and also required that they be available at any hour of the day or night to respond to him. Moreover, Complainants were required to spend countless hours, including late nights and weekends, in Mr. Lopez's presence. This was usually required not due to any work-related reason, but simply because Mr. Lopez wanted [REDACTED] and [REDACTED] to be near him. When [REDACTED] and [REDACTED] submitted to Mr. Lopez's inappropriate behavior, Mr. Lopez said that he would raise their salaries, referred to each of them as his Chief of Staff, and dangled the prospect of promotions. However, when [REDACTED] and [REDACTED] refused his inappropriate requests or rebuffed his offensive behavior, Mr. Lopez would become enraged and threatened their jobs. Mr. Lopez made it clear that submission to his sexually harassing conduct was a non-negotiable term of Complainants' employment.

A. Mr. Lopez's Specific Behaviors Toward [REDACTED]

The following are examples of Mr. Lopez's sexually harassing conduct toward [REDACTED]

- On June 22, 2012, while at the Brooklyn Democratic Club, Mr. Lopez asked [REDACTED] if she would accompany him on a trip to Russia and sleep in the same bed with him. When [REDACTED] communicated that she would not do that, Mr. Lopez got very upset and stormed out of the Club.
- Mr. Lopez frequently told [REDACTED] that she should not wear a bra. On one occasion, Mr. Lopez told [REDACTED] that she looked nice, but he would rather she not wear a bra, and then proceeded to snap her bra from the back.
- Mr. Lopez frequently accused [REDACTED] of having a prior sexual relationship with a former boss of hers. [REDACTED] asked Mr. Lopez to stop making such statements because it made her uncomfortable, but Mr. Lopez persisted in doing so.
- On multiple occasions, Mr. Lopez required [REDACTED] to massage his hand. While [REDACTED] did that, Mr. Lopez sometimes pushed his hand in between [REDACTED] legs, forcefully making contact with her inner thigh. When this happened, [REDACTED] attempted to lift Mr. Lopez's hand up and off of her, but

Mr. Lopez would not stop. Typically, this happened when Mr. Lopez was driving [REDACTED] home late at night and while Mr. Lopez was highly inebriated.

- When in Albany, Mr. Lopez asked [REDACTED] if she would kiss him if the Assembly passed certain legislation they had worked on. [REDACTED] replied: "on the cheek," but Mr. Lopez insisted that it be on the lips.
- On July 10, 2012, Mr. Lopez required [REDACTED] to accompany him on a trip to Atlantic City. There was no work purpose for this trip. Before the trip, Mr. Lopez told [REDACTED] that she should not wear a bra on the trip, which, as stated above, was a frequent obsession of his. When [REDACTED] defied Mr. Lopez's instruction and wore a bra, Mr. Lopez became very angry and refused to talk to [REDACTED] for hours.
- When Mr. Lopez and [REDACTED] arrived in Atlantic City, Mr. Lopez insisted that they go up to a room he had reserved at the Borgata Hotel in order to "freshen up." (Mr. Lopez apparently had been "comped" for the room, even though [REDACTED] had made it clear that she was not staying in Atlantic City overnight). While they were in the hotel room, Mr. Lopez tried to kiss [REDACTED] on the lips. [REDACTED] said "no" and had to push Mr. Lopez away several times before Mr. Lopez accepted that she would not submit to his advances.<sup>2</sup>
- Mr. Lopez told [REDACTED] that she should grow her hair out to make it look more like [REDACTED] hair. Mr. Lopez said that [REDACTED] "used her hair to be sexy."
- Mr. Lopez told [REDACTED] that she and [REDACTED] were "well endowed" and that [REDACTED] should "play that up."
- On multiple occasions when Mr. Lopez was angry, he called [REDACTED] a "bitch."
- On more than one occasion, Mr. Lopez required [REDACTED] to rub his neck while he was driving.
- On many occasions, Mr. Lopez told [REDACTED] that she should wear short skirts to work and that she should use her sexuality in meetings, including crossing and uncrossing her legs to get a reaction. Mr. Lopez further said that watching the reactions of other people to [REDACTED] would excite him and turn him on.

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<sup>2</sup> This incident was especially frightening for [REDACTED] because Mr. Lopez is approximately six feet and five inches tall and is physically imposing.

- On June 11, 2012, while in Mr. Lopez' Albany office, Mr. Lopez purchased "Playguy" magazine as a practical joke on one of his friends. However, before giving the magazine to his friend at a birthday celebration that evening, he asked [REDACTED] to place fake mailing labels on the magazine and to read it. [REDACTED] feeling embarrassed, left the room.

B. Mr. Lopez's Specific Behaviors Toward [REDACTED]

The following are examples of Mr. Lopez's sexually harassing conduct toward Ms. [REDACTED]

- Mr. Lopez frequently asked [REDACTED] to wear mini skirts, button down blouses and high heels for him. Whenever [REDACTED] wore something that Mr. Lopez liked, he would ask [REDACTED] if she dressed for him.
- Mr. Lopez told [REDACTED] that he considered her the most attractive person in the office.
- Mr. Lopez frequently asked [REDACTED] to massage his hand for him, purportedly because he had lost feeling in it. On one occasion, [REDACTED] submitted to this request and massaged his hand. Mr. Lopez also asked [REDACTED] to give him a manicure. According to Mr. Lopez, giving him a manicure would demonstrate that [REDACTED] cared and respected him.
- Mr. Lopez required [REDACTED] to meet with him twice a week after work, purportedly to discuss work-related matter. However, these meetings quickly devolved into matters unrelated to work, as Mr. Lopez told [REDACTED] that he needed her to be his "therapy."
- At these "therapy" sessions, Mr. Lopez told [REDACTED] that she had beautiful eyes and that he liked being "with a hot chick." Mr. Lopez frequently tried to hold [REDACTED] hand. When [REDACTED] pulled her hand away, Mr. Lopez became angry. On one occasion, Mr. Lopez grabbed [REDACTED] hand and, when she tried to pull it away, tightened his grip and counted to sixty until he released [REDACTED]
- Mr. Lopez repeatedly spoke with [REDACTED] about the problems he had in the relationship with his girlfriend, and how he was "floating from woman to woman." Mr. Lopez also constantly pried into [REDACTED] relationship with her boyfriend, and refused to accept that [REDACTED] did not want to discuss it with him.

- Mr. Lopez asked [REDACTED] to accompany him to Atlantic City, purportedly for more “therapy” and because he wanted a “hot chick” to be with him.
- After [REDACTED] rejected Mr. Lopez’s invitation to go to Russia and share a bed with him, Mr. Lopez asked [REDACTED] to take the trip with him. Mr. Lopez told [REDACTED] that she would never be allowed to leave his side and that she would have to get drunk with him.
- Mr. Lopez asked [REDACTED] to accompany him on a 5-day trip to Quebec, which was another trip with no work purpose. When [REDACTED] turned down this request, Mr. Lopez became enraged and, as punishment, began to take away some of [REDACTED] work-related duties.
- Mr. Lopez repeatedly told [REDACTED] that her lack of interest in him was because [REDACTED] was purportedly a lesbian. In response, [REDACTED] consistently replied that her sexual orientation was none of his business. Nevertheless, Mr. Lopez frequently told [REDACTED] that he wanted to set her up with various lesbian elected officials. Mr. Lopez added that he thought this would be “very hot.”
- On many occasions, Mr. Lopez asked [REDACTED] about her sexual history. When [REDACTED] again told him that the subject was none of his business, Mr. Lopez became angry and told [REDACTED] that she was too conservative and that she should “stop putting up walls.” Mr. Lopez added that [REDACTED] should be more like the “bra-burners of the 70’s.”
- Mr. Lopez has expressed dismay that [REDACTED] was not sexually promiscuous; he referred to her as “virginal.”
- Mr. Lopez repeatedly asked [REDACTED] to come to work without wearing a bra. At other times he suggested that Ms. Rivera should be topless. He has also complained to [REDACTED] that she pulled down her skirt when she sat down.
- Mr. Lopez has played with [REDACTED] hair and frequently stood inappropriately close to her.
- Mr. Lopez frequently told [REDACTED] that she did not dress sexily enough for his taste, and that she should learn how to “dress sexy” from a 14-year-old intern who works in Mr. Lopez’s Brooklyn office. To that end, Mr. Lopez attempted to arrange a shopping trip with [REDACTED] and this child, ostensibly so that the child could show [REDACTED] how to dress more to Mr. Lopez’s liking. When [REDACTED] relayed these and other circumstances to her mother, [REDACTED] mother

Carolyn Kearns, Esq.  
July 26, 2012  
Page 7

became concerned about the welfare of [REDACTED] and the child-intern and reported this to the police, who visited Mr. Lopez's Brooklyn office.

III. Summary and Conclusion

As is evident from the above, Mr. Lopez's conduct toward [REDACTED] and [REDACTED] is in violation of the Assembly's Sexual Harassment Policy. It also is a violation of law, including Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, the New York State Human Rights Law, Executive Law § 296 *et seq.*, and the New York City Human Rights Law, New York City Administrative Code § 8-107 *et seq.*

The conduct at issue would be disturbing if committed by any private employer in the State. That the perpetrator is an elected official, entrusted by the people of this State with serving the public interest, is a disgrace. We ask that the Committee take whatever actions are necessary to remedy the harms done to [REDACTED] and [REDACTED] and to ensure that Mr. Lopez is no longer able to sexually harass any woman in the employ of the Assembly.

Very truly yours,



Kevin Mintzer



Meeting of the Assembly Standing Committee on Ethics and Guidance

Friday, July 27, 2012  
11:00 AM  
Room 438-B CAP

Members Present: Daniel O'Donnell (Chair), Kevin Cahill, Jack McEneny, Michelle Titus, Brian Curran (Ranking Minority Member), Janet Duprey, Joseph Giglio, Tony Jordan

Also Present: Carolyn Kearns, Kevin Engel

Pursuant to the call of the Chair and upon notice given pursuant to Rule IV §2(b) of the Assembly Rules, the meeting was duly convened in open session. Mr. McEneny made the following motion:

Because the Committee will be discussing matters which may lead to the discipline of a particular person, I hereby move – pursuant to the provisions of Public Officers Law §105 – that this Committee conduct its meeting relative to this matter in executive session at which only the members of this Committee and its counsels may be present.

The motion was seconded and a vote taken thereon. The motion was approved unanimously.

The meeting was thereafter conducted in executive session.

The complaint was read and reviewed by the Members of the Committee and discussion was had thereon. The Members unanimously concluded that the allegations, if true, violated the Assembly Sexual Harassment Policy. The Committee approved a letter to Assemblymember Lopez providing him with the opportunity to provide a sworn statement in relation to the allegations or to appear before the committee and testify under oath.

Thereafter, Assemblymember O'Donnell offered the following motion:

"I hereby move that with respect to this matter all the considerations, deliberations, files and records of the Assembly Committee on Ethics and Guidance be confidential and that no member or staff of the Committee may reveal any fact or item of information relevant to the deliberations of the Committee, except pursuant to either a majority vote of the entire Committee or the concurrence of the Chairman and the Ranking Minority

Members – and that a breach of confidentiality with respect to this matter be considered unethical conduct.”

Following a discussion regarding the proceedings of the Committee with regard to this matter, Assemblymember Cahill offered a motion to authorize Assemblymember O'Donnell's counsel, Ann Horowitz, to serve with Kevin Engel as investigative counsel to the Committee. The motion was seconded and approved unanimously.

Upon conclusion of the discussion conducted in executive session, the meeting was reconvened in open session and was thereafter adjourned.

DRAFT

Committee Agenda

Friday, July 27, 2012

11:00 a.m. -

Standing Committee on Ethics and Guidance (O'Donnell)  
Room 438-B CAP

Motion to convene meeting in executive session

Meeting of the Assembly Standing Committee on Ethics and Guidance

Thursday, August 2, 2012  
11:00 AM  
Room 438-B CAP

Members Present: Daniel O'Donnell (Chair), Kevin Cahill, Jack McEneny, Michelle Titus, Brian Curran (Ranking Minority Member), Janet Duprey, Joseph Giglio, Tony Jordan

Also Present: Ann Horowitz, Kevin Engel

Pursuant to the call of the Chair and upon notice given pursuant to Rule IV §2(b) of the Assembly Rules, the meeting was duly convened in open session. Mr. McEneny made the following motion:

Because the Committee will be discussing matters which may lead to the discipline of a particular person, I hereby move – pursuant to the provisions of Public Officers Law §105 – that this Committee conduct its meeting relative to this matter in executive session at which only the members of this Committee and its counsels may be present.

The motion was seconded and a vote taken thereon. The motion was approved unanimously.

The meeting was thereafter conducted in executive session.

A motion was made by Mr. McEneny to accept the minutes of the previous meeting. The motion was seconded and a vote taken thereon. The motion was approved unanimously.

Discussion was had, and agreement was reached, that it was unnecessary for there to be a motion regarding confidentiality of the proceedings, as the motion from the meeting of July 27, 2012 remains in effect.

The letter dated July 31, 2012 to Daniel O'Donnell from Gerald B. Lefcourt, Assemblymember Lopez's attorney, was read and reviewed by the Members of the Committee and discussion was had thereon. After discussion, the following decisions were made. With respect to the request for an extension of time, Mr. Lopez's attorney will be given until August 10, 2012 to advise the Committee whether Mr. Lopez will respond in writing or by personal appearance, and Mr. Lopez will be given until August 16, 2012 to appear or to submit a written response. With respect to the request that Assemblymember Cahill decline to participate in this matter, the Committee

noted that Mr. Cahill had previously disclosed familiarity with the father of one complainant. After further discussion about the limited nature of Mr. Cahill's contact with the complainant's family, Mr. McEneny made a motion that the Committee determine that it is appropriate for Mr. Cahill to continue to participate in the Committee's proceedings in this matter. The motion was seconded and a vote taken thereon. The motion was approved unanimously. The Committee approved sending a letter from the Chair to Mr. Lefcourt responding as described above to the two requests made in Mr. Lefcourt's July 27, 2012 letter.

Following a discussion regarding the proceedings of the Committee and its investigation plan with regard to this matter, the Committee determined that Ann Horowitz and Kevin Engel acting as investigative counsel to the Committee would carry out the investigation plan under the supervision of the Chair and the Ranking Minority Member of the Committee.

Upon conclusion of the discussion conducted in executive session, the meeting was reconvened in open session and was thereafter adjourned.

# CONFIDENTIAL

DATE: August 15, 2012  
TO: Members of the Assembly Standing Committee on Ethics and Guidance  
FROM: Ann Horowitz and Kevin Engel  
RE: Staff Investigation Report

The following is a summary of the investigation that has been conducted to date in this matter. The initial telephone complaints were taken by Carolyn Kearns. Her contemporaneous notes of the intake interviews are in the binders. The July 26, 2012 complaint letter from complainants' attorney, which Committee members read at the July 27<sup>th</sup> meeting, is also in the binders. Both are summarized very briefly at the beginning of this report, but the summaries are not intended as a substitute for reading the documents.

On August 2, 2012, the Committee directed Ann Horowitz and Kevin Engel to carry out the investigation plan discussed at the August 2<sup>nd</sup> meeting under the supervision of the Chair and the Ranking Minority Member of the Committee. On August 9, 2012, we interviewed both complainants in New York City at the office of their attorney, with their attorney present.

## The Initial Complaints

On July 16, 2012, Carolyn Kearns received a telephone call from [REDACTED], who said that she wanted to quit her job in Assembly Member Vito Lopez's office and file a sexual harassment complaint. Ms. [REDACTED] gave examples of his conduct toward her that included: comments about her clothing and her hair, telling her that she should go braless or topless, telling her that she must be a lesbian, etc. She also said that he asked her to write him a letter and asked her to leave him notes. On July 17<sup>th</sup> Ms. [REDACTED] called Carolyn Kearns in the morning and told her that there was another employee who also wants to leave and whose situation is worse, and that the other employee would probably call. See typed intake notes for details.

Late in the afternoon of July 17, 2012, Carolyn Kearns received a telephone call from [REDACTED] who said that she was scared of Assembly Member Lopez because of how upset he gets. She described various examples of inappropriate behavior by Mr. Lopez. She cried at one point during this conversation and said that she didn't know what was going to happen next and that she was afraid. See typed intake notes for details.

## The Letter

In response to a request for a written statement that could be presented to the Committee at its July 27, 2012 meeting, Kevin Mintzer, the attorney for Ms. [REDACTED] and [REDACTED] submitted a 7 page letter dated July 29, 2012 addressed to Carolyn Kearns. The letter makes detailed allegations of specific incidents involving each complainant. It also gives background information about each complainant, and alleges that Mr. Lopez repeatedly forced both

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# CONFIDENTIAL

complainants to communicate to him that they cared for him and admired him. Committee members are referred to the letter, which they have previously read, for details.

## The Interviews

We will begin by describing the overall atmosphere and working conditions in Assembly Member Vito Lopez's office, drawing from consistent descriptions obtained from both interviews. Where appropriate, we will attribute a particular statement to either [REDACTED] or [REDACTED]. Further details about the work environment, and specific incidents, are set out under headings for each complainant.

We found both complainants credible. Neither one seemed to embellish, and there are places in their narratives where they could have done so. They both appeared to be careful about making their statements accurate, sometimes backtracking and correcting their wording. We have specifically made notes about demeanor, facial expression and tone of voice where it is relevant to our assessment of credibility.

### 1. The Office Setting

Both young women began working for Assembly Member Vito Lopez in mid-April of 2012. Each responded to a Craigslist ad that did not include the name of the Assembly Member, but did include the borough. Each had three interviews before being hired. [REDACTED] was living in Albany at the time she responded to the ad; [REDACTED] was living in Brooklyn. [REDACTED] was required to travel to Brooklyn periodically in April and May before she moved to Brooklyn in June; moving to Brooklyn was a job requirement for her.

Both young women said that from the beginning of their employment they were required to communicate with Mr. Lopez in writing, by texts and handwritten notes. Mr. Lopez told them that they had to write him notes about how much they loved working for him and how much they cared about him. Both young women said that whatever they wrote wasn't good enough for Mr. Lopez; he always wanted more than they were willing to write.

They also said that all of his staff, including them, had to spend time with Mr. Lopez after work: going out to dinner or hanging out in bars. [REDACTED] said that she realized from the beginning that the office was an "unconventional work environment" in that she was required to go out to dinner every night with Mr. Lopez and the rest of his staff. She skipped dinner twice, once to work late and once because she was moving, and Mr. Lopez criticized her both times. [REDACTED] said that Mr. Lopez always wanted to "hang out" with staff and gave examples. [REDACTED] said that Mr. Lopez threatened to fire her, and sometimes threatened to fire the whole office, because they did not care about him enough.

Both young women talked about the ways in which Mr. Lopez expected them to keep him company outside of the workplace as part of their jobs. [REDACTED] said that he made it seem like his staff's job was to hang out with him, that the relationship wasn't just about work, and that hanging out with him at night in a bar or a restaurant was "therapy" for him. She said that he used the word "therapy" a lot in describing the duties of his staff: gambling was therapy for

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him, going to Atlantic City was therapy for him, being with a “hot chick” was therapy for him. ██████ said that he talked about his work being so stressful and he said that it was his staff’s job to go with him to have fun and bring his stress level down. ██████ said he often talked about this in terms of percentages: you [meaning staff] have to bring my work percentage down and my fun percentage up; I’m at 90, you have to bring it down.

2. ██████

In response to an open-ended question about her complaint about Mr. Lopez, and when the behavior started, Ms. ██████ made the statement that she realized from the beginning that the office was an “unconventional work environment.” She said that the first time she missed dinner it was because she had a big work project and stayed late in the office to finish it; the next day Mr. Lopez told her that staying in the office to work instead of going to dinner with him was “not right.” He also criticized her the time that she missed dinner because she was moving from Albany to Brooklyn. She then said that his behavior to her started becoming very inappropriate in June and became totally inappropriate the last week in June, the week after session ended [also the week of the June 26<sup>th</sup> Congressional primary]. With respect to the time period when the inappropriate behavior started and progressed, Ms. ██████ said that Mr. Lopez had medical problems when she first started working for him: first a very bad toothache and then pneumonia. The inappropriate behavior began after he was feeling better.

Starting the last week of session [June 18-21], Mr. Lopez told Ms. ██████ that she shouldn’t wear a bra. Her best estimate is that he did this a few times in a week. He said things like, I like your top, it would be better if you weren’t wearing a bra. She responded by saying she would wear a bra, and that he was making her uncomfortable, and she would try to leave the office. He would call her back for work reasons – she said “He’s my boss so I had to go back.” This only happened when they were alone, either in his office in the district or in the car. Once, in the last week in June, he snapped her bra from the back; they were alone.

In June Mr. Lopez started asking her to massage his hand, and sometimes when this happened he put his hand between her legs. [Note that this behavior is described in the complaint letter at pages 3-4.] This happened in June, while they were driving back and forth to Albany, but she isn’t completely sure about the date. She said he did this a lot – she hesitated while trying to quantify, then just said “a lot.” He put his hand between her upper thighs “as far up my leg as he could go.” When he put his hand on her leg, she would flick his hand away; then he would put his hand between her legs and she would pry it up. Then he would say, I’m putting my hand back, and he would do that and he would put his hand as far up her leg as he could go. He didn’t put his hand between her legs every time she had to massage his hand; he usually put his hand between her legs after he had been drinking. No one else was in the car when he did this. ██████ was in the car with them on one trip and he didn’t do it then. He was always driving when this happened. She would offer to drive after he had been drinking, but he would never let her drive.

**Investigative counsel note on demeanor:** ██████ became visibly upset as this set of Q & A’s progressed, especially the part about how far up her leg he put his hand and how she responded. Her eyes were slightly reddened, she was looking down, biting her lip and visibly fighting back



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tears. Ann Horowitz asked her if she wanted to take a break, and she said no, that she would be OK and that she knew she had to tell us these things.

During the last week of session [June 18-21], Mr. Lopez asked Ms. [REDACTED] if she would kiss him if the big omnibus housing bill they had been working on passed. She said, sure, on the cheek. He told her it had to be on the lips. She walked away and did not kiss him. This happened in the red carpeted area of the lobby behind the rostrum, between the Speaker's office and Jim Yates's office. People were around who could see the interaction but no one was close enough to hear what was said.

**Investigative counsel note on demeanor:** this line of questioning followed the questions about Mr. Lopez putting his hand between her legs. When she started talking about the omnibus housing bill, and was talking just about the policy and substance of the bill, she was visibly excited and engaged about the legislative work she had been doing; her face lit up, she started smiling, her voice became stronger and her tone of voice changed.

That same week, Mr. Lopez started accusing Ms. [REDACTED] of having a prior sexual relationship with a former boss of hers. This started at the University Club at the M.A. Simotas fund-raiser; Ms. [REDACTED] couldn't remember the date [it was June 19<sup>th</sup>; Ann Horowitz accessed the information from her office's calendar]. The topic came up because [REDACTED] former boss was at the fund-raiser. Mr Lopez made the same accusation another 6 or 7 times. Ms. [REDACTED] told Mr. Lopez that it wasn't true and that he was making her uncomfortable; that didn't stop him. No one else was nearby when Mr. Lopez made the direct statements [accusations re prior sexual relationship] but he sometimes used the former boss's name in front of other people to make her uncomfortable.

**The Atlantic City trip:** The incident took place on July 10, 2012, but Mr. Lopez had started talking about a trip to Atlantic City from April on, in the context of his saying things like: I always go to Atlantic City, I go with my staff, whoever drives with me to Albany and back for session always takes trips with me, I work so hard and my work/my life are so stressful that it's your job to go with me so I can have fun and bring my stress level down. Ms. [REDACTED] said that Mr. Lopez often talked about this in terms of percentages: you [meaning staff] have to bring my work percentage down and my fun percentage up; I'm at 90, you have to bring it down.

Mr. Lopez asked Ms. [REDACTED] to go on this specific trip after the Dilan/Velazquez primary on June 26<sup>th</sup>; he was very upset after Dilan [his candidate] lost and he said he needed a fun trip. He told her to put the trip on the Assembly/office schedule as a "coded" trip; this meant a schedule item that appeared to be work but that was really a cover for the non-work event. He told her to put it on as a coop-condo meeting because that was the policy area where she had become the expert so it was a logical topic for a meeting for the two of them to go to; she blocked out 3 hours, from noon to 3, hoping that someone else would schedule something at 4, but that didn't happen.

They left Brooklyn at noon; it's about a 2 and a half hour drive so they arrived mid-afternoon. When they arrived, Mr. Lopez said he had been comped a room because he is a black card member; that was the reason he gave for having a room. Before they left Brooklyn, Ms. [REDACTED] had told Mr. Lopez that she would not stay overnight. Mr. Lopez said he wanted to

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freshen up before going to dinner, so they went up to the hotel room. In the room, Mr. Lopez tried to kiss Ms. [REDACTED]. She described the incident this way: he grabbed my face and tried to kiss me, I said "what are you doing" and kept repeating that, I couldn't think of anything else to say. I kept trying to swat his hands away; I don't know how long this went on, it felt like an eternity at the time. During the struggle he was in my face but I don't think it actually got to a kiss. While I was pushing his hands away he said, you should be nice to me. He finally stopped and they went to dinner. There was no one else in the room.

They left Atlantic City at about midnight and got back to Brooklyn at about 2:30 am. Before they left Atlantic City, Mr. Lopez had 4 cognacs and 4 or 5 bloody marys. Ms. [REDACTED] told us: he ordered alcoholic drinks for me and I didn't drink them and he was angry with me for not drinking. He was very drunk and I was uncomfortable driving with him; he wouldn't let me drive; on the way home, he put his hands between my legs. The next day, Mr. Lopez yelled at Ms. [REDACTED] for risking his life to go home because she had refused to stay overnight. She had told him earlier that she wasn't going to stay overnight. She had offered to drive (one reason that she refused to drink alcohol) and he wouldn't let her.

**Investigative counsel note on demeanor:** Ms. [REDACTED] was again visibly upset and fighting back tears while she described what Mr. Lopez had done in Atlantic City, and I (Ann Horowitz) did not ask her to describe him putting his hand between her again, beyond her statement that it happened again on the drive back from Atlantic City. I asked her if she wanted to take a break; she said no, she would be OK and she knew she had to tell us these things. She did stop briefly at points to compose herself so that she could start talking again.

**Written communications from Ms. [REDACTED] to Mr. Lopez:** Ms. [REDACTED] said that Mr. Lopez made her write notes to him all the time. She said that soon after she started working for him: he told me to write him a 10 page note about why I wanted the job. The next day he told me that if he was grading my note it would be an F and he told me to write another one. I wrote a second note about what we would do in Albany; it also wasn't good enough; I probably could never write a note that was good enough for him. He wants long notes from us that say how much we care about him, how much we love our jobs and what we will do to relieve his stress. Ms. [REDACTED] doesn't know who has those notes, but she doesn't have them. She said that she also had to text Mr. Lopez every night and every morning. At first it was just to check in, but then: it turned into having to show him I cared about him; whenever I wrote "like" he said I had to change it to "love." Then I had to call him every night; if I didn't I got in trouble, meaning that he would call me into his office the next day and verbally berate me for a long time; that probably happened every other day. He threatened to fire me because I didn't care for him enough; sometimes he threatened to fire the whole office because we didn't care for him enough. At the end he said, you have to think that I walk on water.

**Allegations relating to the 14 year old intern:** [REDACTED] is a 14 year old summer intern. [REDACTED] first day was as a volunteer on June 26<sup>th</sup> for the Congressional primary; she started working in Mr. Lopez's office the second week of July; [REDACTED] was only in the office about 6 days that Ms. [REDACTED] was also there. Ms. [REDACTED] and [REDACTED] were both in the office on July 16, 2012, and Ms. [REDACTED] described the police visit to the office that day as follows: I went to lunch with [REDACTED] and when we got back a cop car was there; Vito came in and I saw the cop talk to Vito; at first I thought it was a joke, but then the cop asked to

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talk to [REDACTED] and it was clear that it wasn't a joke. [REDACTED] and I went out to see what was going on; [REDACTED] said the cops asked her if she was in any danger. The police called [REDACTED] mother, who is a judge whose candidacy Mr. Lopez had supported; there is a long-standing family connection between Mr. Lopez and [REDACTED] family.

After the police car showed up, we had to wait about an hour for the detectives to show up. [REDACTED] mother [REDACTED] came to the office while we were waiting for the detectives. The detectives questioned [REDACTED] and her mother; the discussion between [REDACTED] and the detectives was behind closed doors so Ms. [REDACTED] did not hear any of it. At some point, Mr. Lopez convinced an officer (possibly Officer Catalfamo, but Ms. [REDACTED] isn't sure) that this was a false accusation to hurt Mr. Lopez; the officer was sympathetic, said yeah, that happened to me once, I know what it's like. Lt. Kemper, who [REDACTED] described as the head of the 90<sup>th</sup> precinct and very close to Mr. Lopez, came to the office later that day; the lieutenant explained to Mr. Lopez (with [REDACTED] in the room) that no file would be made and that the complaint would be untraceable.

Before the police left, Ms. [REDACTED] told Mr. Lopez: I know what the complaint is, I heard you on the phone with [REDACTED] about the clothes shopping trip. Mr. Lopez said, [REDACTED] has a problem with the way [REDACTED] dresses and [REDACTED] is going to help [REDACTED] buy more conservative clothes. Ms. [REDACTED] said that she knows the Lopez version of the shopping trip is not true. After the police left, Mr. Lopez said, [REDACTED] is crazy, her brother is troubled; he said other negative things about [REDACTED] and also told Ms. [REDACTED] you have to be on my side in this.

At this point Ms. [REDACTED] had decided to leave, but she felt she had to go in to the office the next day (7-17-12) and she did: I was scared to leave. I said I was sick, and I was, I kept throwing up, but Mr. Lopez wouldn't let me leave until 4:45. [See intake notes for content of telephone conversation between Ms. [REDACTED] and Carolyn Kearns on July 17, 2012.]

3. [REDACTED]

Ms. [REDACTED] has been involved in politics since she was in junior high school, has had public sector and government internships and was looking for a job in politics or government after graduation. She responded to a Craigslist ad for a job in a Brooklyn Assembly Member's office and had her first interview with Mr. Lopez in March at his political club. She didn't know who the member was when she replied to the ad, but when she walked into the interview she recognized him. She described the rest of the hiring process as follows: He asked me to volunteer at his club to prove that I was dedicated and hardworking before hiring me; I made constituent calls at the club; then he hired me and I started working in his office on 4-17-12.

The behavior that is the subject of this complaint started in early June, maybe late May; Ms. [REDACTED] was not completely sure of the date. She described the early behavior as follows: At first it was comments about my clothes, him saying that I dressed and did my hair to drive men crazy. He asked me to wear blouses that button down the front, short skirts and high heels; if he liked what I was wearing he would ask if I dressed for him; I always said no, I dressed for

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myself. Ms. [REDACTED] said, at first I tried to just blow it off, pretend I didn't hear him; then I told him I didn't like what he was saying and he would say, you're being cute.

Ms. [REDACTED] said that Mr. Lopez made comments to her about her clothes daily, and more than once each day; it was constant, ongoing comments every day. Ms. [REDACTED] said, when I wore pants, he called me into his office and chastised me: you don't look pretty, you don't feel good about yourself when you dress like that. He tried to make all his comments about how I dressed about me/my problems. Ms. [REDACTED] said, because I work with Hasidic rabbis, I had to dress "frum" [religiously observant, dressing to cover the arms, up to the neck, below the knees.] Mr. Lopez understood I had to dress that way but didn't like it; he would ask if I dressed "frum" as retaliation for his comments about how I dressed; I would tell him I dress for myself but I have to respect the rabbis.

Mr. Lopez told Ms. [REDACTED] she should dress like the intern, meaning [REDACTED], who is 14. Mr. Lopez said [REDACTED] knows how to dress" and told Ms. [REDACTED] she should go shopping with [REDACTED]. He told her to schedule a shopping trip with [REDACTED] and put it on the Assembly office calendar; Ms. [REDACTED] never did schedule the shopping trip. Mr. Lopez kept asking Ms. [REDACTED] to schedule the shopping trip and she never did. [REDACTED] was there during the conversations about Ms. [REDACTED] going clothes shopping with the intern, but the intern was not. In response to our request for details, Ms. [REDACTED] said that: [REDACTED] is taller than I am, she wears very short skirts, high heels, blouses that button down the front. Mr. Lopez said I could learn to dress sexy from [REDACTED] he said, [REDACTED] can help you grow, you're afraid to let a 14 year old help you grow. When we were at 16 Court Street binding petitions, he mentioned a few times that I should go shopping for clothes with [REDACTED] that she could teach me how to dress. One day I wore a floor length dress when we were binding petitions and Mr. Lopez told me to wear shorter skirts; he asked one of the people volunteering for [REDACTED] number and he called [REDACTED] and put me on the phone with her so I could schedule the shopping trip. [REDACTED] was away the whole July 4<sup>th</sup> week; I never scheduled the shopping trip because I left soon after [REDACTED] got back from vacation; [REDACTED] came back the day I quit [actually the day she called Carolyn Kearns; see intake notes.]

In early June, Mr. Lopez started asking Ms. [REDACTED] to come to work without wearing a bra. This happened 4 or 5 times, different evenings when they were out at a bar or a restaurant, usually when he was drunk. Mr Lopez would say things to Ms. [REDACTED] like: you're too conservative, you need to be more like the bra-burners of the 70's, show off your assets; it's legal to be topless in NY, you should take advantage of that; it would make you feel more free. The first time he said this, she tried to turn it into a joke: she said, only if you wear heels and a dress; he said, I would wear heels and a dress to see you without a bra (or something like that). After the first time, she just said, no I won't. That annoyed him and he said things like: you put up walls, you're too conservative, too virginal. Mr. Lopez lamented that Ms. [REDACTED] didn't sleep around and implied that she should. (During this part of the interview, Ms. [REDACTED] stopped, backtracked and corrected herself/changed wording, taking pains to be accurate, avoid any overstatement of what Mr. Lopez had said or done)

Starting in mid-June, Ms. [REDACTED] had to meet Mr. Lopez for "therapy" sessions. Ms. [REDACTED] described the context as follows: he always wanted to hang out, the relationship wasn't just about work; he made me the scheduler so I would pick the bar or restaurant where we were

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going to hang out. These sessions could start anywhere from 7 to 10 pm and could go as late as 2:30 am, but they never ended before 11 pm. We would go out after meetings, and we would start talking about the meeting, but then it would devolve into discussions about his life, about my life, about my clothes, about my body. He said that he needed a friend and he said that looking at me was therapeutic. He used the word "therapy" a lot: Atlantic City was therapy, gambling was therapy, a trip to Quebec would be therapy.

At some point, Mr. Lopez asked Ms. [REDACTED] to go to Atlantic City with him; at first she said sure, hoping other people would be on the trip; Mr. Lopez made it seem like his staff's job is to hang out with him and have fun. When it became clear that it would just be the two of them going to Atlantic City she said no and he got very upset. This happened when they were at dinner; he turned sideways, wouldn't look at her, and screamed at her; there were very few people in the restaurant. She said that they only went to dinner in restaurants that were almost empty. Mr. Lopez said that he needed the Atlantic City trip, with alcohol, gambling, a "hot chick" as "therapy." At this same dinner (when she said no to the Atlantic City trip), he was talking about Montreal. Ms. [REDACTED] said that: the next day he called me into his office and told me to put a 5 day trip (him and me) to Quebec on the schedule; I was so shocked I just said sure, but I never put it on the schedule and he got upset with me.

Starting in late June, Mr. Lopez asked her to massage his hand. This happened at a bar near her house. Mr. Lopez said, everyone massages my hand, I've lost feeling in my hand, etc. She massaged his hand once; she told him, this is a little weird; he got upset with her and said you're not dedicated enough, you're not showing respect for me. She didn't massage his hand after that; she only did it once. In response to a question about how he acted when he got upset, Ms. [REDACTED] said he would make sarcastic comments and shun her.

Ms. [REDACTED] thinks that the first time Mr. Lopez asked her to go on a trip with him was a trip to Russia organized by another Assembly Member; it sounded like fun so she said yes. As the trip got discussed more, Mr. Lopez said things like: you have to be with me all the time, you have to be my drinking buddy, especially on a 12 hour train ride from one city to another; he said everyone drank vodka during that whole train ride and got really drunk and she would have to get drunk with him; at this point she knew this wasn't right but it was also so far in the future that she didn't think it would be a problem. Eventually she said no, she wouldn't go on the trip.

We asked about the allegations on page 6 of the complaint letter about Mr. Lopez telling Ms. [REDACTED] that she must be a lesbian because she wasn't interested in him and trying to set her up with lesbian elected officials. This behavior started one evening at a bar when the conversation about how Ms. [REDACTED] dressed turned into Mr. Lopez saying to her, maybe you're a lesbian and telling her that she had to dress up for a dinner with a lesbian City Council Member. Ms. [REDACTED] tried to laugh it off, but when that didn't work, Ms. [REDACTED] said that she wouldn't do what Mr. Lopez wanted, and that she would dress appropriately for whatever event she went to. Mr. Lopez told Ms. [REDACTED] that at this dinner [which never happened], she was supposed to signal him to leave so that she could ask the Council Member out on a date. After a lunch with an Assembly Member who has a tough election race coming up, Mr. Lopez said to Ms. [REDACTED] you're only nice to lesbians; Ms. [REDACTED] was at the lunch because she was supposed to be Mr. Lopez's liaison to the other Assembly Member.

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Mr. Lopez also wanted Ms. [REDACTED] to help a judicial candidate running in a district where it would be good politically for the candidate to appear to be a lesbian. Mr. Lopez wanted Ms. [REDACTED] to appear in public with the candidate, holding her hand and looking like a couple. In this context, Mr. Lopez asked Ms. [REDACTED] how much do you love politics? How much do you want [the candidate] to win? You should ask her out; she will do anything to win. Mr. Lopez made some of the comments about Ms. [REDACTED] asking out lesbian officials in front of [REDACTED] another staffer in the district office.]

Mr. Lopez was pushing Ms. [REDACTED] to have sexual relationships with elected officials and candidate discussed above because he said it would be hot, he would like to see it, he would like to see how Ms. [REDACTED] dressed. At least once when he was making these comments, she just walked out; she thinks this when he said something in front of [REDACTED]. Other times when he was pushing her to ask one of the 3 out or have a relationship with one of them, she just said no. Ms. [REDACTED] also told Mr. Lopez that she had a boyfriend, and this annoyed him.

Ms. [REDACTED] said that when Mr. Lopez saw that she was getting upset by his behavior, that he was "getting to me," he would pry into my relationship with my boyfriend and I wouldn't answer him, told him it wasn't his business. At some point I told him that I was having trouble with my boyfriend, to give him an excuse for why I was upset; then he would try to hold my hand to "comfort" me. This happened almost daily. When this made me cry, he said, you must be pregnant.

Inappropriate physical contact started in late June, during the phone-banking for Dilan in the Congressional primary, Mr. Lopez had yelled at Ms. [REDACTED] about someone else's phone list. She said: I walked out and he followed me, got very close, was playing with my hair as if he was "comforting" me; it was very weird and made me uncomfortable; I didn't say anything, just stood there. Another time he grabbed her arm; sometimes he would pretend to brush away flies on her chest; he ran his fingers along her upper arm. She said: he tried to hold my hand; when I tried to pull away, he held it tighter; once in a bar he held my hand for a full minute, he was counting to 60, I was crying.

Ms. [REDACTED] told her mother about Mr. Lopez's behavior on June 27<sup>th</sup>, the day after she told her father. She knows she told her father on the 26<sup>th</sup> because Mr. Lopez had yelled at her a lot so she had her father pick her up and take her home. She said: I told my mom the next day. I told my dad everything, but I didn't tell my mom (because I knew she would confront Mr. Lopez).

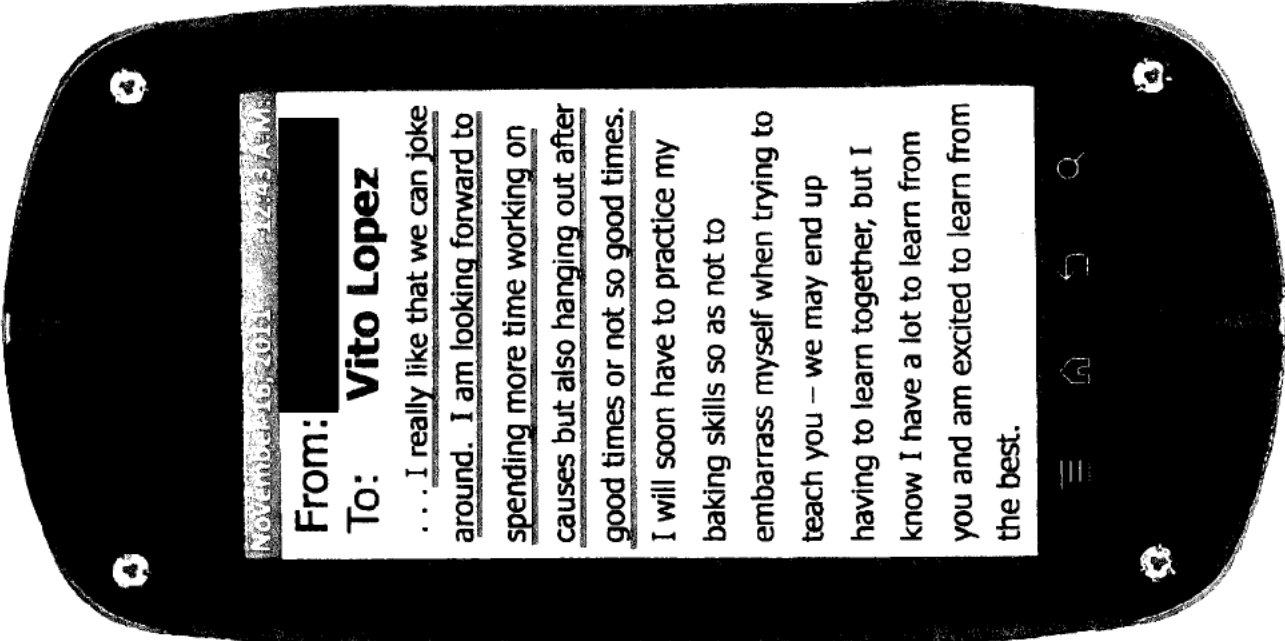
**Written communications from Ms. [REDACTED] to Mr. Lopez:** From the beginning, Mr. Lopez told Ms. [REDACTED] you need to text me good night, you need to text me whenever I get bad press. She said that : him telling me that you need to be caring morphed into me having to tell him that I care about him, that I want to be with him; we were supposed to call him 15 times a day. He told me to write notes to him, so I would write "hi" on a post-it note and leave it for him; he would tell me that wasn't good enough. He told me to write him a 2 page letter telling him why I love working for him and I did. I sent him texts, but it was all one way, he hardly ever responded. He would pass me notes, then he ripped most of them up; I have some of them.

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When we asked Ms. [REDACTED] whether there was anything else she wanted to tell us, she offered the following two items. The first is an example of what she described as: us always having to be with him. One evening when Mr. Lopez, Ms. [REDACTED] and Ms. [REDACTED] were all at a bar, he texted me while all three of us were in the bar, will you come back to the bar with me and have 2 more beers; I texted back, no. He dropped me off at my apartment; 15 minutes later he texted me; he had come to my apartment building, he was downstairs texting me; he made me go back to the bar with him after he had taken [REDACTED] home.

The second item is that Mr. Lopez had told her: I like having you in charge of my schedule. He wanted me to make up inside jokes between him and me and put them on the Assembly/office schedule; this meant coded entries for him and me hanging out that would be a secret from the other staff.

CLAIM:  
Sexual advances made  
to [redacted] and others



NOVEMBER 16, 2011 12:45 PM

From: [redacted]

To: **Vito Lopez**

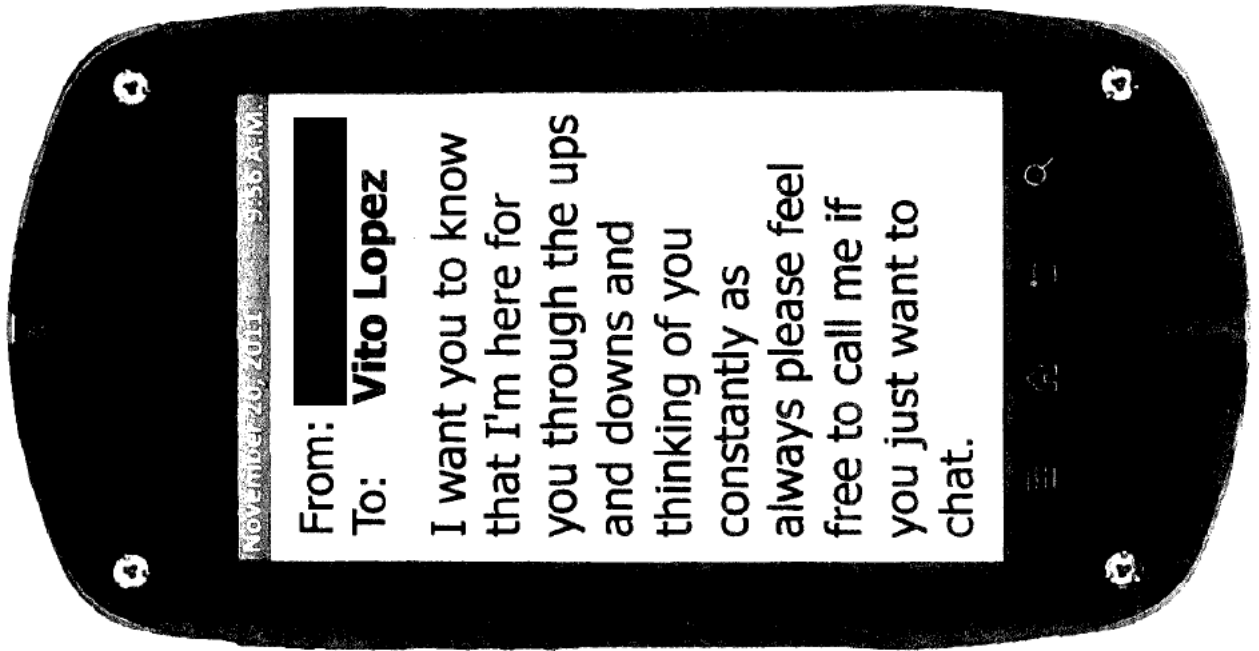
. . . I really like that we can joke around. I am looking forward to spending more time working on causes but also hanging out after good times or not so good times.

I will soon have to practice my baking skills so as not to embarrass myself when trying to teach you – we may end up having to learn together, but I know I have a lot to learn from you and am excited to learn from the best.



**CLAIM:**

Sexual advances made  
to [redacted] and others

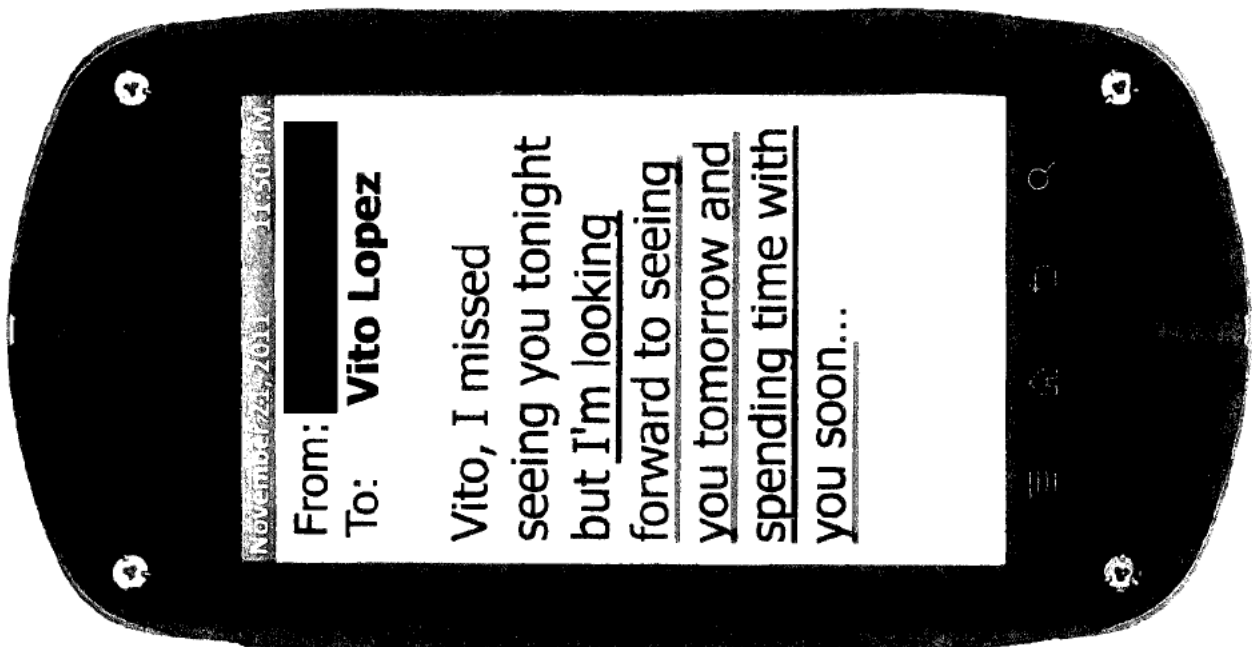


From: [redacted]

To: **Vito Lopez**

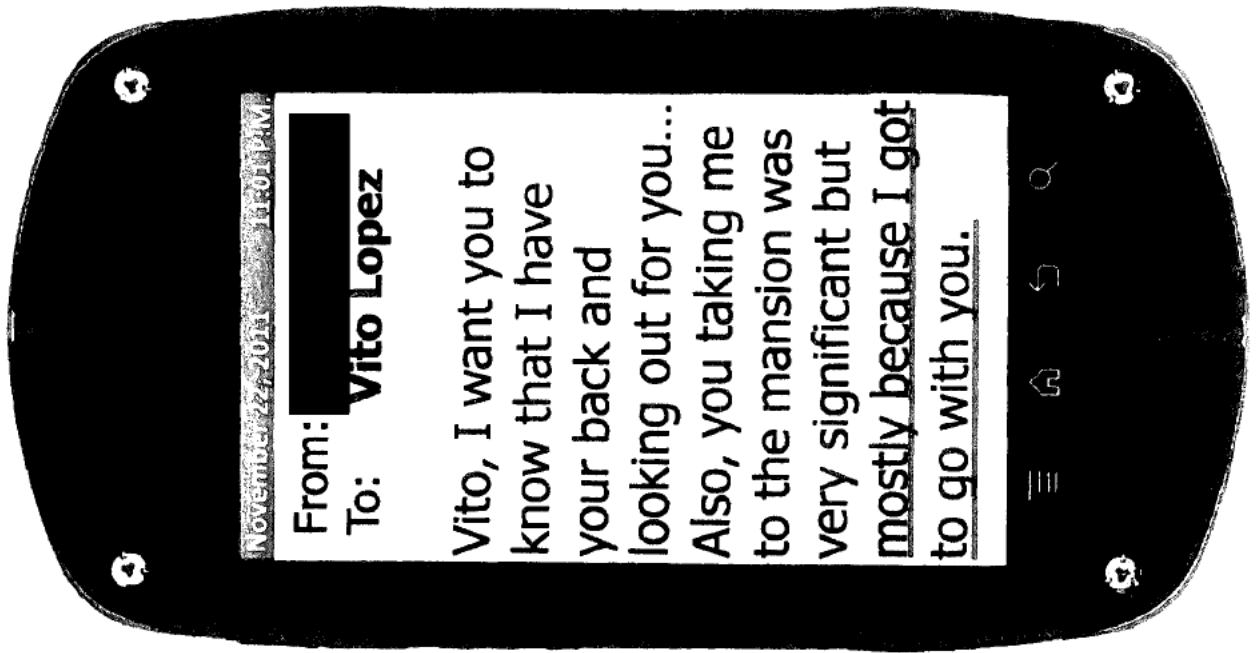
I want you to know  
that I'm here for  
you through the ups  
and downs and  
thinking of you  
constantly as  
always please feel  
free to call me if  
you just want to  
chat.

CLAIM:  
Sexual advances made  
to [redacted] and others



**CLAIM:**

Sexual advances made  
to [redacted] and others



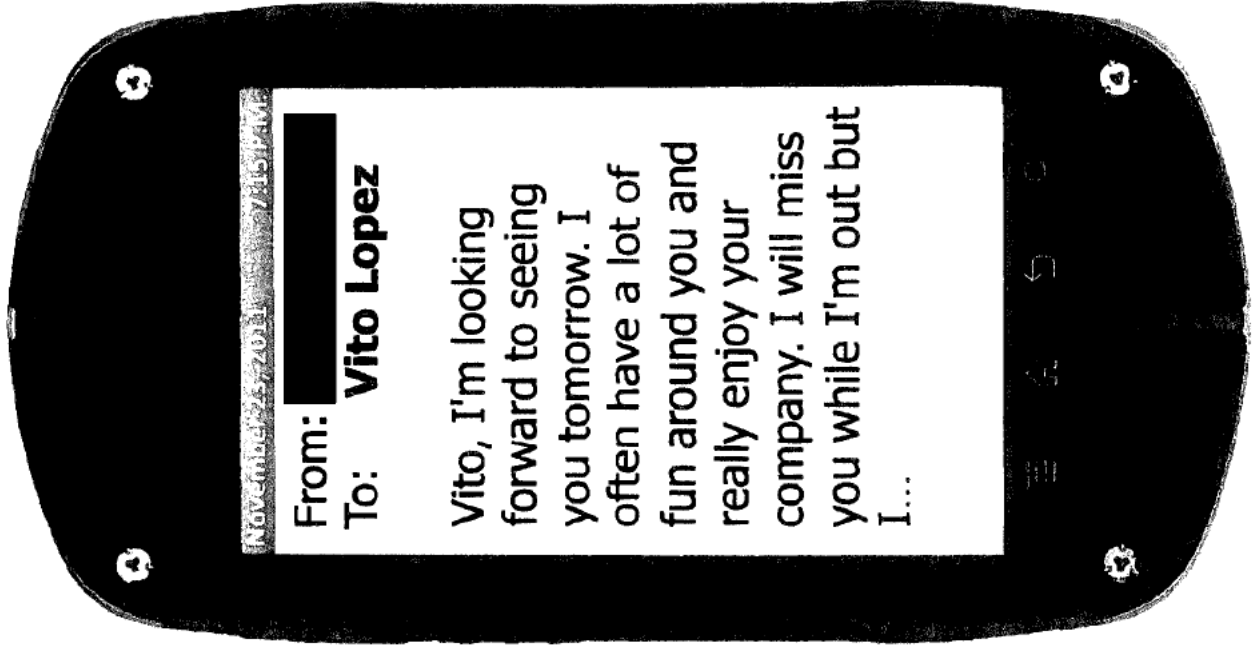
November 24, 2011 11:01 PM

From: [redacted]  
To: **Vito Lopez**

Vito, I want you to know that I have your back and looking out for you... Also, you taking me to the mansion was very significant but mostly because I got to go with you.

**CLAIM:**

Sexual advances made  
to [redacted] and others



November 25, 2011 7:15 PM

From: [redacted]

To: **Vito Lopez**

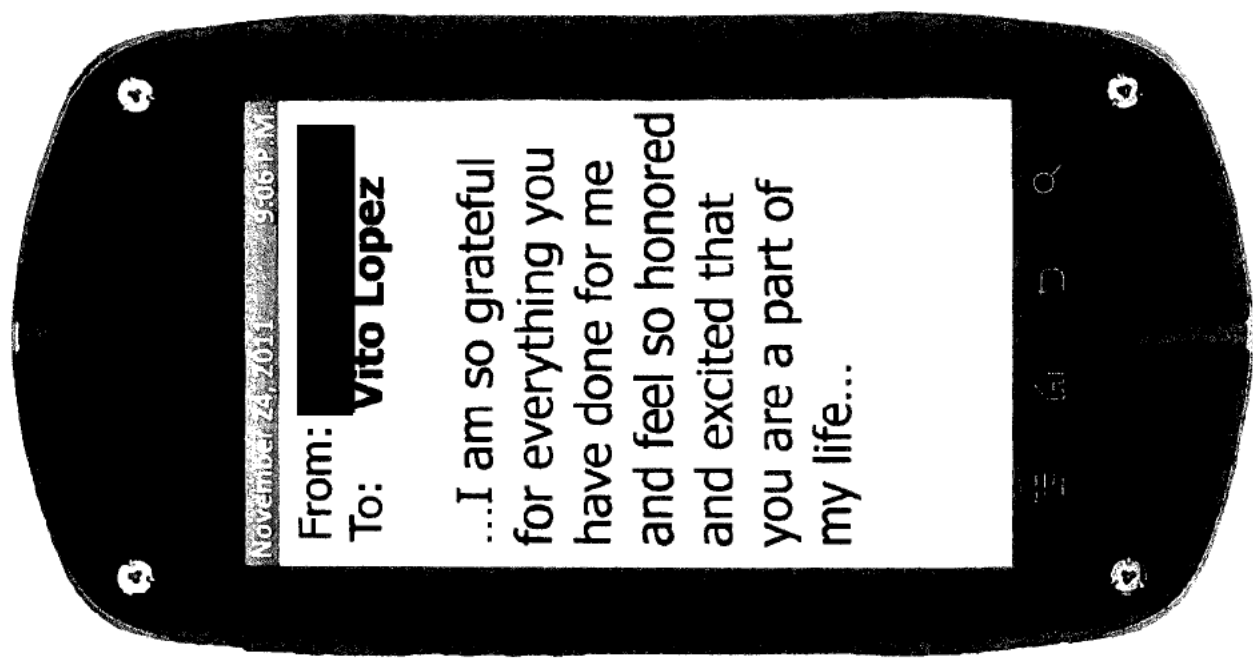
Vito, I'm looking forward to seeing you tomorrow. I often have a lot of fun around you and really enjoy your company. I will miss you while I'm out but I...

**CLAIM:**  
Sexual advances made  
to and others

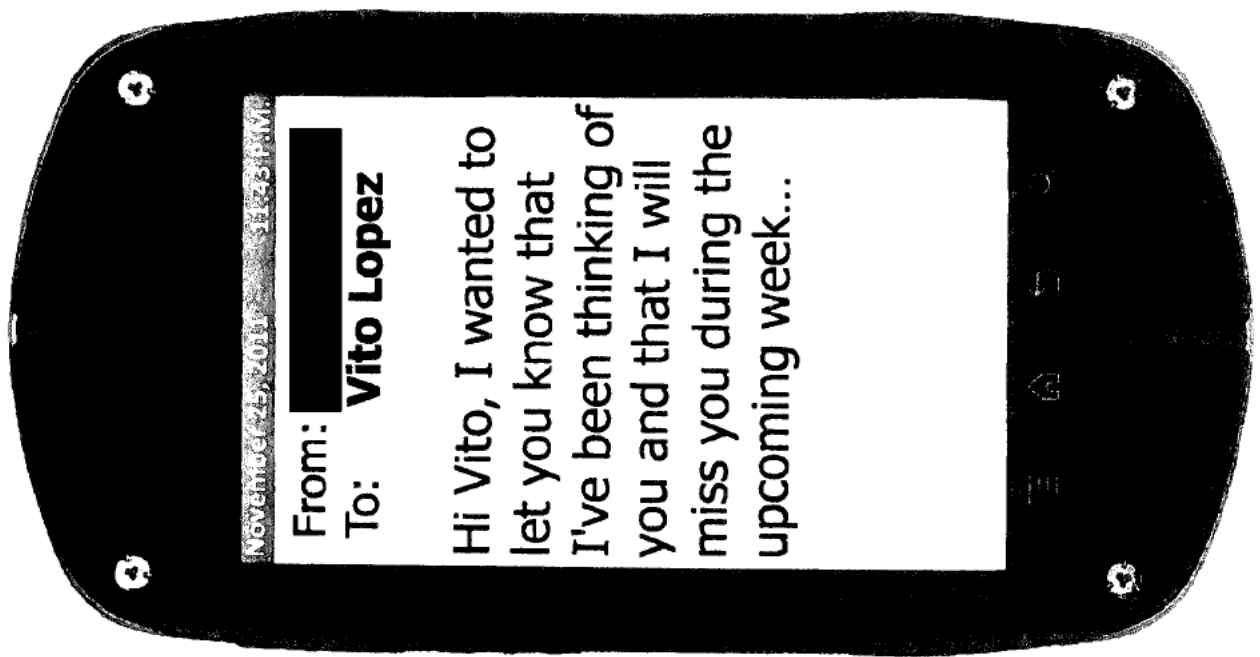


**CLAIM:**

Sexual advances made  
to [redacted] and others

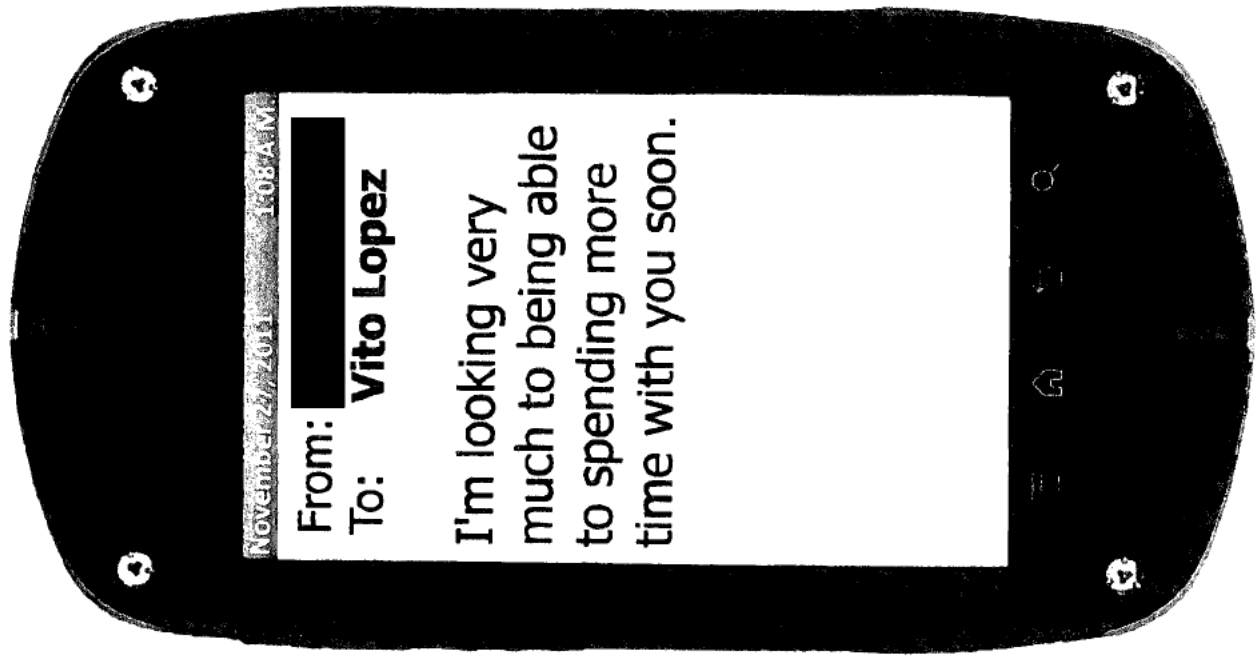


CLAIM:  
Sexual advances made  
to [redacted] and others



**CLAIM:**

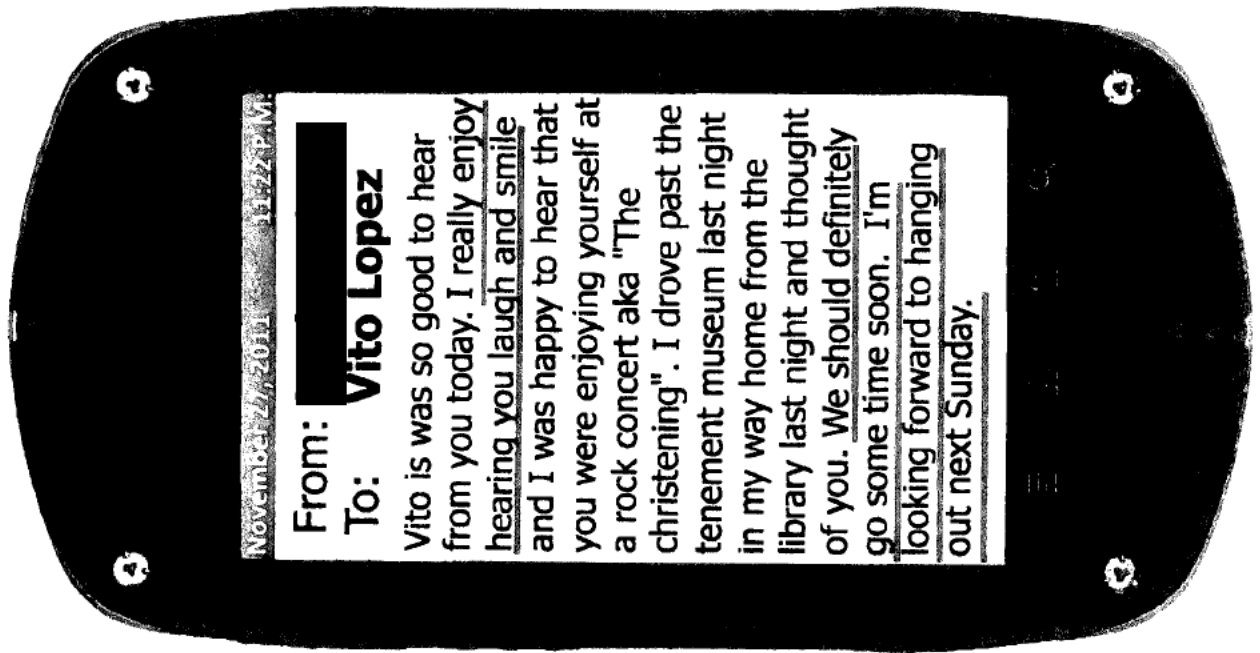
Sexual advances made  
to [REDACTED] and others



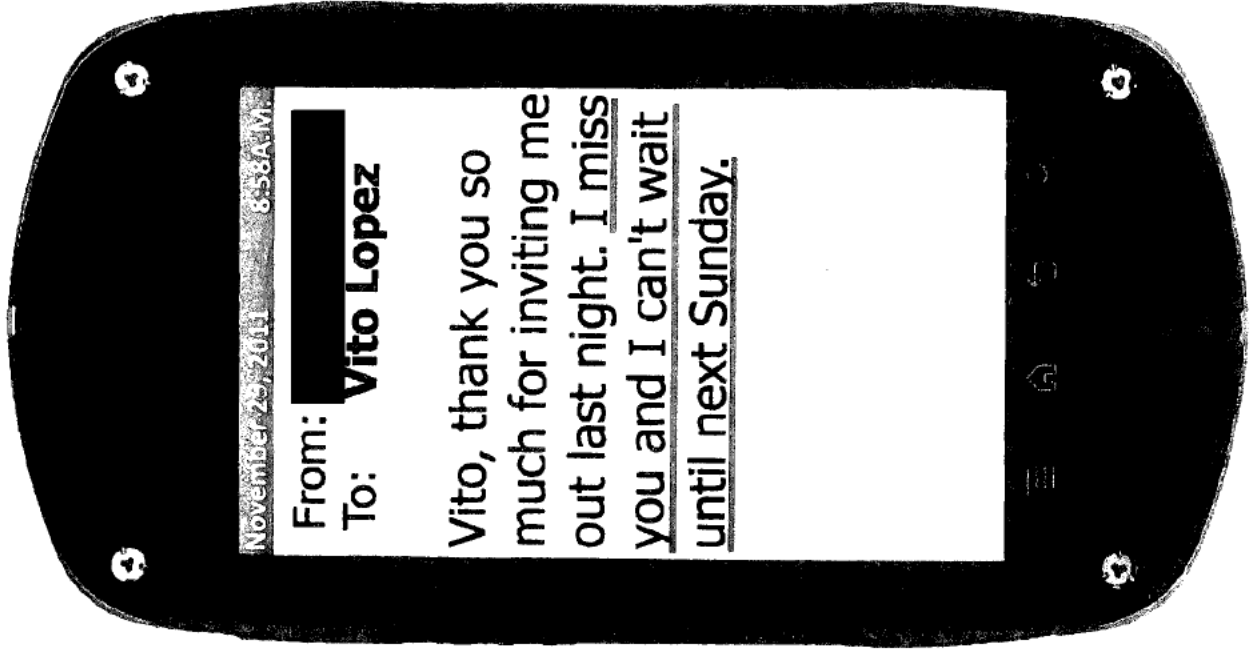


**CLAIM:**

Sexual advances made  
to [redacted] and others



CLAIM:  
Sexual advances made  
to [redacted] and others



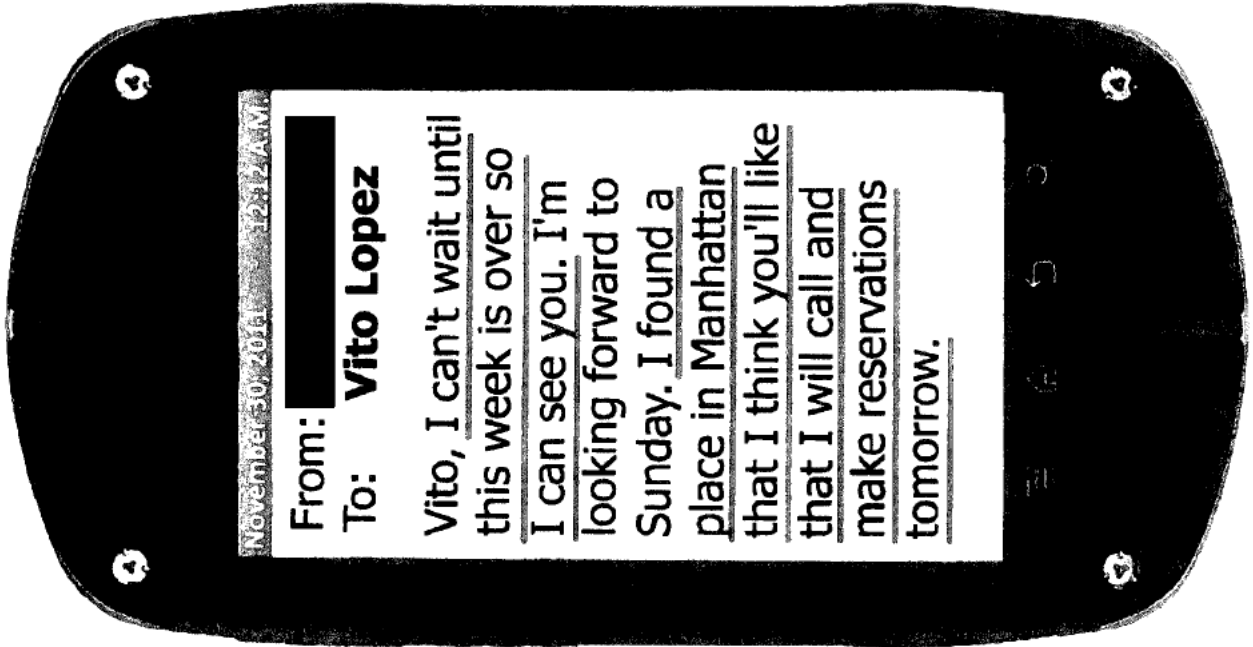
November 29, 2011 8:58 AM

From: [redacted]  
To: **Vito Lopez**

Vito, thank you so  
much for inviting me  
out last night. I miss  
you and I can't wait  
until next Sunday.

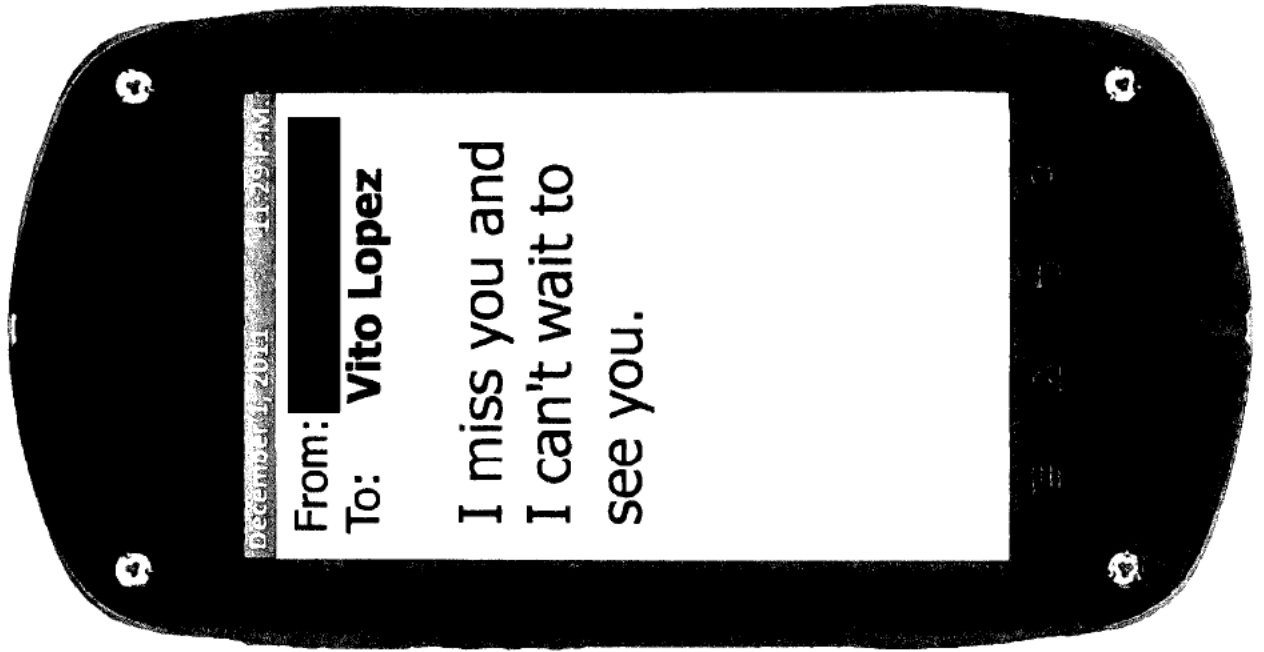
CLAIM:

Sexual advances made  
to [redacted] and others



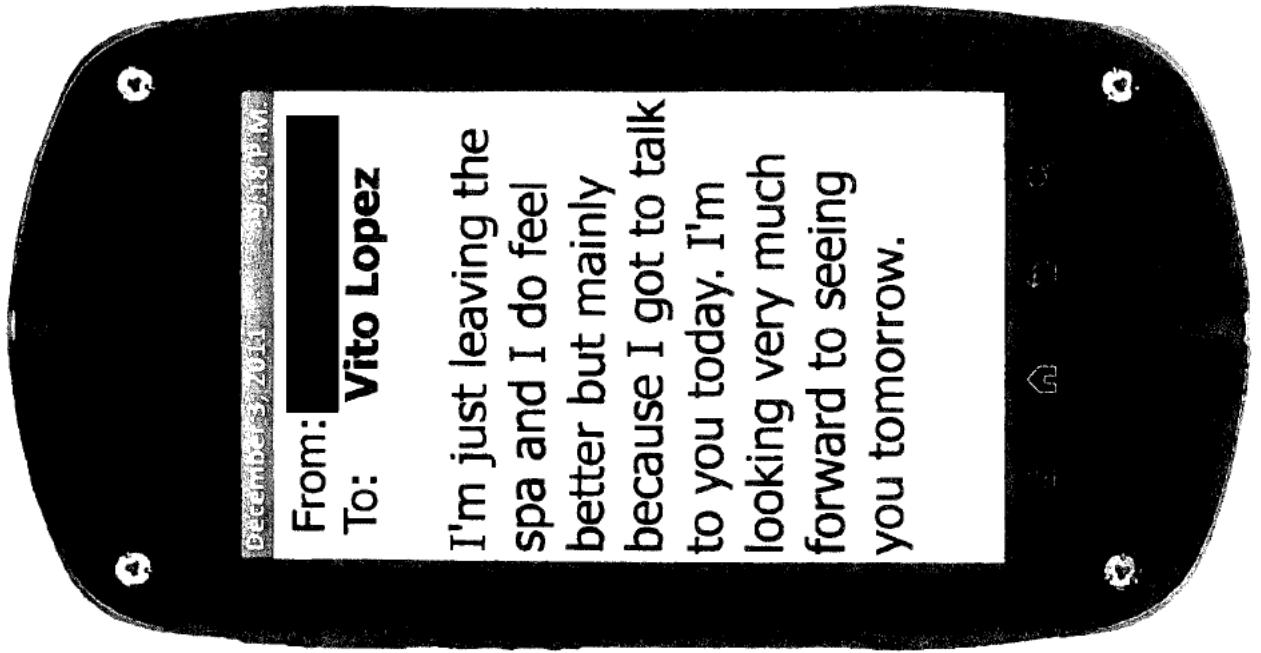
**CLAIM:**

Sexual advances made  
to [redacted] and others



**CLAIM:**

Sexual advances made  
to [redacted] and others



Agenda - 8/16/12

I. Motion to Conduct in Executive Session

McE - mtr  
Corran - 2d  
unan approved  
done -

"Because the Committee will be discussing matters which may lead to the discipline of a particular person, I hereby move - pursuant to the provisions of Public Officers Law §105 - that this Committee conduct its meetings relative to this matter in executive session at which only the members of this Committee and its counsels may be present."

didn't happen  
ble he was late -  
he told ct we shd have  
someone else convene once  
quorum present, go into exec  
session + start reading

II. Distribution of Materials

- \* Minutes
- A. Complaint
- B. Correspondence
  - Response
- C. Assembly Sexual Harassment Policy
- D. Legal Guidance
  - EEOC Enforcement Guidance
  - Sexual Harassment in the Workplace
- E. Rules/Statutes relative to conduct of Committee Activities
  - Rule IV §2(d) of the Assembly Rules
  - Public Officers Law, §105
  - Legislative Law §62-a
  - Civil Rights Law §73
- F. Miscellaneous
- G. Information from Staff
  - Intake Notes
  - Investigators' Report

\*\* DOD to intro new material w/ stmt re his telcon w/ GBL - telling GBL, anything you want to put before committee should be in your response.  
(and then note for minutes)

IV. Discussion

A. *New Information*

B. *Status of Investigation*

- *Additional evidence or interviews?*
- *Additional research?*
- *Findings?*

C. Range of recommended action

1. No sanction
2. Removal as Chair/Ranker of Committee
3. Loss of seniority and rights attended thereto
4. Fines (no explicit authority)
5. Written admonition by the Speaker
7. Censure resolution by the body
8. Expulsion (questionable authority)
9. Proposed policy changes
10. Reduce staff allocation
11. Training

C. Letter to Speaker?

V. Scheduling of additional meeting?

Tentative date –

Meeting of the Assembly Standing Committee on Ethics and Guidance

Thursday, August 16, 2012

11:00 AM

Room 438-B CAP

Members Present: Daniel O'Donnell (Chair), Kevin Cahill, Jack McEneny, Michelle Titus, Brian Curran (Ranking Minority Member), Janet Duprey, Joseph Giglio, Tony Jordan

Also Present: Ann Horowitz, Kevin Engel

Carolyn Kearns, pursuant to subpoena, only during the portion of the meeting at which she gave testimony and produced documents pursuant to the subpoena

Pursuant to the call of the senior member of the committee and upon notice given pursuant to Rule IV §2(b) of the Assembly Rules, the meeting was duly convened in open session. Mr. McEneny made the following motion:

Because the Committee will be discussing matters which may lead to the discipline of a particular person, I hereby move—pursuant to the provisions of Public Officers Law §105—that this Committee conduct its meeting relative to this matter in executive session at which only the members of this Committee and its counsels may be present.

The motion was seconded and a vote taken thereon. The motion was approved unanimously.

The meeting was thereafter conducted in executive session.

Discussion was had, and agreement was reached, that it was unnecessary for there to be a motion regarding confidentiality of the proceedings, as the motion from the meeting of July 27, 2012 remains in effect.

Ann Horowitz advised the Committee of the investigative actions taken since the last meeting (interviews of the complainants in NYC on 8-9-12) and referred members to the new written materials provided for their review: the written response dated 8-15-12 from Mr. Lefcourt on behalf of Assemblymember Lopez, the intake notes typed by Carolyn Kearns, and the Staff Investigation Report from Ann Horowitz and Kevin Engel dated 8-15-12. Members of the Committee then read all of the new materials.

DRAFT

1

8-22-12

NYA 005704



Prior to discussion of the materials, the Chair advised Committee members of telephone conversations that he had with the attorneys for the complainants and for Assemblymember Lopez. During the Chair's conversation with Mr. Lefcourt last week, in which Mr. Lefcourt said that he would make a written submission on behalf of Assemblymember Lopez rather than having Mr. Lopez appear in person before the Committee, the Chair advised Mr. Lefcourt that he should include anything that he wanted the Committee to consider as part of his written response. The Chair also advised the Committee that he had told Mr. Lefcourt that he believed the Committee could make a decision on August 16<sup>th</sup> and that therefore any information (including witnesses to be interviewed) should be included in the written response due August 16<sup>th</sup>.

The Committee deliberated at length. In doing so, members asked questions of Ann Horowitz and Kevin Engel with respect to the Staff Investigative Report; discussed the credibility of various statements before the Committee; and discussed what additional investigation might be done to provide additional information for the Committee to consider in its deliberations.

Committee members asked the investigators about their observation of the demeanor of both complainants during the interviews that were conducted on August 9<sup>th</sup> and both Ms. Horowitz and Mr. Engel gave the Committee their individual observations, expanding on the information about demeanor in the written report, and comparing the demeanor of the two complainants. In particular, there was discussion about the demeanor of the complainant who was the subject of multiple incidents of unwelcome severe physical conduct that occurred on multiple drives between Albany and NYC: specifically, that Assemblymember Lopez put his hand on her leg, she removed his hand, and he then put his hand between her upper thighs, putting his hand as far up between her legs as he could go. Both investigators talked about the observable indicia demonstrating that she became emotionally upset when she had to describe the behavior and the contrast between her demeanor when describing these incidents and her demeanor when she was describing the substantive parts of her job that she enjoyed. There was a similar discussion of her demeanor when she was describing the trip to Atlantic City that Assemblymember Lopez required her to take with him: Assemblymember Lopez's attempt to kiss her in a hotel room and her struggle to fend him off before he stopped the unwelcome physical conduct, her telling the investigators that on the drive back from Atlantic City he again put his hand between her legs.

The Committee noted, among the documentary evidence before it, the sign-in sheet with Assemblymember Lopez's signature for Assembly Member training on sexual harassment training on May 25, 2011. All Members are required to participate in that training, and because the training is designed to heighten Assembly Members' sensitivity to sexual harassment issues, there was discussion of the credibility of the paragraph under the heading "Lessons Learned" in Assemblymember Lopez's written response. Committee members raised other questions as to the credibility of other statements in the 8-15-12 written response.

Among other possible inquiries that could be part of a further investigation, Committee members raised questions about whether anyone else working in Assemblymember Lopez's office had complained about sexual harassment and whether there was a high level of turnover among female employees in the office. They suggested that a review of Assembly personnel records would provide information as to the latter question.

Following this discussion, a motion was made and seconded to issue a subpoena duces tecum to Carolyn Kearns. A vote was taken and the motion was approved unanimously. The Chairman then signed a subpoena and it was served personally on Carolyn Kearns.

Ms. Kearns appeared before the Committee and the Chairman swore her in; she then provided the following information under oath. She stated that she was appearing pursuant to the subpoena that had been served on her. She then provided documents pursuant to the subpoena: two written complaints of sexual harassment against Assemblymember Vito Lopez made by two female employees who had previously worked in his office. The complaints are dated late December 2011 and early January 2012.

The Chair asked Ms. Kearns what happened as a result of these complaints. In response, Ms. Kearns stated that the New York State Assembly paid a lump sum of \$103,000; Assemblymember Lopez paid a lump sum of \$32,000; and Mr. Lopez and his staff were required to receive supplementary instruction concerning the Assembly Sexual Harassment/Retaliation Policy, and identification and avoidance of sex discrimination and sexual harassment in the workplace, within 90 days of execution of the agreement and that such training has been scheduled for August 23<sup>rd</sup>.

The Ranking Minority Member asked Ms. Kearns whether the settlement was public. In response, Ms. Kearns stated that it was not public; that on June 6, 2012, the Assembly and Assemblymember Lopez signed a settlement agreement with two employees in his district office with no finding of wrong-doing or any admission that any party acted improperly or unlawfully. A confidentiality agreement was included therein, which prohibited disclosure of the underlying circumstances of the dispute, the fact of the agreement, or any terms of the agreement, except in response to a court order or in response to a valid subpoena. The agreement also provided that Mr. Lopez and the employees agree that they shall not communicate or publish, or cause to be communicated or published, any disparaging remarks, comments, or statements in any form concerning any aspect, circumstance or incident involving the employees' employment in the office of Assemblymember Lopez. The agreement further provided that violation of the above terms would subject the violator to a claim for liquidated damages of \$20,000 or actual or punitive damages, whichever is greater.

The Committee thanked Ms. Kearns for her testimony given pursuant to subpoena and she left the meeting.

The Committee then discussed the documents and testimony provided by Ms. Kearns pursuant to the Committee's validly issued subpoena and continued its deliberations. At the end of the Committee's deliberations, a motion was made and seconded that based on all the information before it, the Committee find that Assemblymember Lopez violated the Assembly's Sexual Harassment Policy. A vote was taken thereon, and the motion was unanimously approved.

The Committee then discussed the actions that it would recommend be taken following its finding that Assemblymember Lopez violated the Assembly's Sexual Harassment Policy (the Policy). The Committee was advised that the attorney for the complainants had communicated that he had conferred with his clients regarding the confidentiality of the proceedings, and that

concerns about preserving the complainants' privacy should not deter the Committee from a public sanction, in the event that the Committee were to find that Mr. Lopez had violated the Policy. Individual motions were made, seconded, and unanimously approved to recommend the following actions:

1. Removal as Chair of the Housing Committee;
2. A public letter of censure and admonition;
3. A permanent ban on interns and employees under the age of 21 in Assemblymember Lopez's offices;
4. Loss of seniority;
5. Reduction of staff allocation to that of a freshman member;
6. Additional training for staff and for the Assemblymember.

The Committee also suggested that, consistent with the Sexual Harassment Policy, both the Policy itself and the regular training provided to Assembly Members and staff should be reviewed and revised as appropriate.

A motion was made, and seconded, that the Chair and the Ranking Minority Member approve the recommendation letter from the Committee to the Speaker, without need for review and approval of the letter by the full Committee. A vote was taken thereon and the motion was unanimously approved.

Upon conclusion of the discussion conducted in executive session, the meeting was reconvened in open session, a motion was made and seconded to accept the minutes of the previous meeting, the motion was approved unanimously, and the meeting was thereafter adjourned.

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**In the Matter of the Meeting Convened  
By the New York State Assembly Standing  
Committee on Ethics and Guidance  
TECUM**

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**SUBPOENA  
and  
SUBPOENA DUCES**

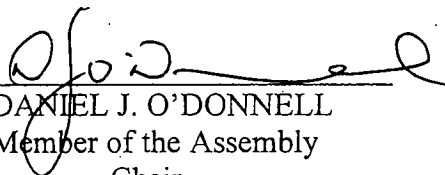
**THE PEOPLE OF THE STATE OF NEW YORK**

To: Carolyn Kearns  
Deputy Counsel to the Majority  
New York State Assembly

**WE COMMAND YOU**, that all business and excuses being laid aside, you appear and attend the meeting convened by the New York State Assembly Standing Committee on Ethics and Guidance, on the 16th day of August, 2012, at 1:30 o'clock in the afternoon, and at any recessed or adjourned date thereafter to give testimony relating to information relevant to the subject matter of the meeting (a general statement of the subject of the inquiry and investigation which is the purpose of this meeting is attached), and that you bring with you and produce at the time and place aforesaid, copies of the following documents:

- Any and all documents in the possession of the New York State Assembly complaining of or alleging sexual harassment by Assemblymember Vito Lopez.

**FAILURE TO COMPLY** with this subpoena and subpoena duces tecum is punishable as a contempt of court and shall make you liable to the persons(s) on whose behalf this was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

  
DANIEL J. O'DONNELL  
Member of the Assembly  
Chair  
Committee on Ethics and Guidance

**GENERAL STATEMENT OF THE SUBJECT  
OF THE INQUIRY AND INVESTIGATION**

This is to advise you that the New York State Assembly Standing Committee on Ethics and Guidance, pursuant to section 62-a of the Legislative Law, pursuant to paragraph (d) of Section 1 of Rule IV of the Rules of the Assembly, and pursuant to a directive from Assembly Speaker Sheldon Silver requiring that this committee investigate alleged violations of the Assembly policy prohibiting sexual harassment, is holding a meeting concerning an alleged violation of this policy by Assemblymember Vito Lopez.

Received 8/14/12

*Carly Ken*

Prepared.  
Not handed  
out.

Information submitted to the Assembly Standing Committee on Ethics and Guidance, pursuant to a subpoena issued on August 16, 2012:

1. On December 8, 2011, an employee in the district office of Assemblymember Vito Lopez (E1) contacted Yolande Page regarding unwelcome sexual advances by Mr. Lopez.<sup>1</sup> Subsequent conversations with Ms. Page took place the following week during which E1 indicated that she was going to file a complaint, but that she needed to speak with her attorney.<sup>2</sup> She also indicated that she did not want her life story in the press, stating that there was some personal history that made the situation all the more difficult for her and that she had explained this to Mr. Lopez when she had asked him to stop the behavior.
2. On December 14, 2011, E1 sent a brief email to Mr. Lopez, copied to Counsel's office, in which she stated that Mr. Lopez fired her after a series of escalating incidents in which she repeatedly denied his sexual advances.<sup>3</sup> Counsel's office made numerous unsuccessful attempts to contact E1, by email, regular mail, and telephone from December 15<sup>th</sup> through December 28<sup>th</sup>.<sup>4</sup>
3. On December 28, 2011, a second employee in the district office of Assemblymember Lopez (E2) contacted Counsel's office, expressing concern that she might be fired by Mr. Lopez and attributing this concern to the situation involving E1. E2 stated that she was offended by Mr. Lopez's conduct, especially his behavior toward E1.
4. On January 3, 2012, in furtherance of her conversations with Counsel's office, E2 provided a written account of alleged misconduct by Mr. Lopez.<sup>5</sup>

<sup>1</sup> Ms. Page relayed the conversation as follows: E1 said that at Mr. Lopez's request she had been looking for an apartment for him in Albany and that he told her that he would only get the apartment if she moved in with him. She asked Ms. Page if she had to do it and was told no, of course not. She said that he wanted her to cuddle with him every night and that she had told him no and that she did not want to be intimate with him. E1 stated that whenever she rejected his advances, he would blow up and get upset. She stated that he told her to wear a button-down shirt and keep the top two buttons unopened. She said that he told her that he had feelings for her and when she told him that she didn't have feelings for him, he would say things like, "you need to turn the corner." She also said that he invited her to attend the Somos Conference, but only if they shared a room. She didn't want to share a room with him, so she didn't attend. Ms. Page stated that she encouraged E1 to contact Counsel's office and advised her that EAP was an available resource.

<sup>2</sup> During one of these subsequent conversations, E1 reported that she had recently told Mr. Lopez that he needed to stop sexually harassing her. She said he used foul language and said, "If you don't want to be here..." but then took her to a meeting.

<sup>3</sup> This email is attached to the submission. The employee's name is redacted.

<sup>4</sup> Counsel's office assured E1 on December 15<sup>th</sup> that she remained on the payroll. Both E1 and E2 remained on the Assembly payroll through June 6, 2012.

<sup>5</sup> This account is attached to the submission. The employee's name is redacted.

orally responded to questions

5. On January 4, 2012, E1 contacted Counsel's office by email, stating that she was out of town and would follow up when she returned. She agreed to call at 2:00 on January 12<sup>th</sup>.

6. On January 12<sup>th</sup>, Counsel's office was contacted by an attorney representing both E1 and E2 who directed that there be no further discussion with her clients regarding the matter.<sup>6</sup>

7. On June 6, 2012, the Assembly and Assemblymember Lopez signed a settlement agreement with E1 and E2 with no finding or wrong-doing or any admission that any party acted improperly or unlawfully. A confidentiality agreement was included therein, which prohibited disclosure of the underlying circumstances of the dispute, the fact of the agreement, or any terms of the agreement, "except in response to a court order or in response to a valid subpoena..." The agreement also provided that Mr. Lopez and the employees agree that they "shall not communicate or publish, or cause to be communicated or published, any disparaging remarks, comments, or statements in any form concerning any aspect, circumstance or incident" involving E1 and E2's employment in the office of Assemblymember Lopez. The agreement further provided that violation of the above terms would subject the violator to a claim for liquidated damages of \$20,000 or actual or punitive damages, whichever is greater.

8. Additional terms of the agreement included:

- o The New York State Assembly paid a lump sum of \$103,000 (\$46,386 of which was to be paid to E1, \$15,462 to E2, and the remainder to their attorneys);
- o Assemblymember Lopez paid a lump sum of \$32,000 (\$14,400 to be paid to E1, & \$4,800 to E2, and the remainder to their attorneys); and
- o Mr. Lopez and his staff were required to receive supplementary instruction concerning the Assembly Sexual Harassment/Retaliation Policy, and identification and avoidance of sex discrimination and sexual harassment in the workplace, within 90 days of execution of the agreement. Such training has been scheduled for August 23<sup>rd</sup>.

Respectfully submitted,

*Carolyn Kearns*

Carolyn Kearns  
Deputy Counsel to the Majority

<sup>6</sup> E1 and E2 were represented by the law firms of Cuti Hecker Wang LLP and Alred Maroko & Goldberg

**William Collins**

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**From:** [REDACTED]  
**Sent:** Wednesday, December 14, 2011 1:02 PM  
**To:** [REDACTED]  
**Cc:** pagey@assembly.state.ny.us; collinsw@assembly.state.ny.us;  
kearnsc@assembly.state.ny.us  
**Subject:** termination

December 14<sup>th</sup>, 2011

Dear Assemblyman Vito Lopez:

As you are fully aware, you fired me on Sunday, after a series of escalating incidents in which I repeatedly denied your sexual advances and told you to stop making sexual and other inappropriate remarks to me and other staff or to retaliate against me, and after I reported your behavior last week to human resources. Although you told me that I should still report for work for a brief transition before leaving, you then continued to yell at me on Monday, within ear shot of all staff, stating that you were "not going to get caught up in this minutia type of thing" or "be bogged down in bullshit."

I no longer feel safe at work or in your presence. It is impossible for me to perform my actual job, and I need time to recover from the way I have been treated. You have forced me out, and I am no longer able to report to work. I ask that you continue to pay me while I recover. In any event, I currently have 5 personal days and 6 days of unused comp time, so regardless of your position, I should receive a paycheck through and including December 28, 2011.

I have left all work related materials and papers on my desk and my keys, and left instructions for staff to deal with outstanding matters. My Assembly I.D. will be placed in the mail as of later today.



[REDACTED]  
Deputy Chief of Staff  
Assemblymember Vito J. Lopez  
434 S. 5<sup>th</sup> St.  
Brooklyn, New York 11102

William F. Collins  
Counsel to the Majority  
New York State Assembly  
Room 448M, State Capitol  
Albany, New York 12248

January 4, 2012

Here is a brief written follow-up to our phone conversation. In sum, Assemblymember Lopez has repeatedly made unwanted, unwelcome sexually suggestive comments directed at me and several members of the staff, as well as generally treating the female members of the staff differently from the male staff members in ways that negatively impact how and whether the female members of staff are able to do their work. When a female employee does not accept his inappropriate behavior, he retaliates by telling them that they "have the wrong attitude" or "don't care about their job" and suggests or threatens that they might be better off working in another office. I have personally witnessed the following comments by Assemblymember Lopez:

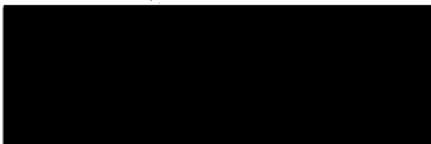
- Frequent comments to me and other female about our appearances, all in the context of constantly encouraging us to be flirtatious and sexy in order to be good at our jobs:
  - telling me and others to wear high heels
  - telling me and others to wear skirts and earrings
  - telling a female employee that she "needed to do something about waxing her eyebrows"
  - repeatedly telling a story about a woman who was very successful at her job, and describing her as "flirtatious and always wearing a miniskirt"
- On several occasions, as a part of a discussion about how specific former female employees were successful at their jobs, describing them as having been flirtatious with males in the community
- Frequently joking, in my presence and the presence of others, that various male employees "are in love with" various female employees
- Frequently telling female employees to smile, a comment I have never heard directed at a male employee

- Telling the female employees that they cannot mention their boyfriends
- Requiring female employees to attend additional events (e.g., all of the "coalition" events planned by other staff members), although male employees are not held to the same standard. For instance, if a female employee does not attend, Assemblymember Lopez will inquire why she is not in attendance, and then the next time he sees her, he will chastise her for failing to attend. I have witnessed that pattern on several occasions, but never for a male employee.
- In staff meetings, repeatedly telling a story regarding a visit by the President of the Dominican Republic, in which the President allegedly remarked that he liked visiting Brooklyn because "the women all wear short skirts"

In addition, other employees have told me of various comments where Assemblymember Lopez has made explicit comments about their body as well as telling them to wear short skirts, high heels, specific items of jewelry, and to be flirtatious. For instance, one female employee mentioned that he once told her she "had small breasts" and therefore "should wear low cut shirts." Also, two female employees have mentioned that he has asked and/or pressured them (individually, and on separate occasions) to share a hotel room with him.

These comments and both the discriminatory and retaliatory behavior are humiliating for me, and make it extremely difficult and often impossible to perform the functions required of my position. In my opinion, the atmosphere created by Assemblyman Lopez's words and behavior is such that his impression of my performance is not merit-based, but rather on whether I adhere to what he considers is the acceptable role for a female's behavior—specifically, flirtatious, dressed in high heels and skirts, and always available socially.

This is just a summary of what I've experienced with some highlighted specific examples, it is not everything that occurred or that I have observed.





THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

August 24, 2012

Honorable Sheldon Silver, Speaker  
New York State Assembly  
Legislative Office Building  
Albany, New York 12248

Dear Speaker Silver:

On July 16, 2012, the Office of Counsel to the Majority received a telephone call from an Assembly employee who stated that she wanted to file a sexual harassment complaint against Assemblymember Vito Lopez. The following day, the Office of Counsel to the Majority received a telephone call from a second employee who complained of sexual harassment by Assemblymember Lopez. These complaints were promptly forwarded to the Assembly Standing Committee on Ethics and Guidance.

The Assembly Sexual Harassment/Retaliation Policy (the "Policy") states that sexual harassment will not be tolerated within the Assembly workplace. It follows the Federal Equal Opportunity Commission Guidelines with respect to the definition of sexual harassment. Such definition includes unwelcome verbal or physical conduct of a sexual nature when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. The Policy further states that no Assembly employee shall be subject to any form of retaliation because they report, complain of, or provide information, assistance and/or testimony related to any complaint of sexual harassment.

The Policy provides that complaints of sexual harassment and/or retaliation against a Member of the Assembly shall be referred to this Committee for investigation and that upon the conclusion of the investigation, the Committee shall report its finding to the Speaker accompanied by a recommended remedy, or dispose of the matter in accordance with its policy regarding disciplinary matters.

The Committee promptly initiated an investigation of this matter, which included witness interviews, relevant documentary evidence, and testimony and documents provided pursuant to subpoena. During the course of the investigation, Assemblymember Lopez was given a copy of the written complaint submitted by the complainants' attorney detailing the allegations against him and was afforded the opportunity to appear before the Committee or provide a sworn statement in relation to this matter. Assemblymember Lopez chose neither to come before the

Committee nor to provide a sworn statement. He did, however, have his lawyer provide a written denial of the allegations.

The Complainants are young women in their twenties employed in the district office of Assemblymember Lopez. Both cooperated fully with the Committee's investigation.

Based upon its investigation, the Committee made the following findings:

1. That Complainants' allegations of unwelcome verbal and physical conduct of a sexual nature were credible, including:
  - That there was pervasive unwelcome verbal conduct by Assemblymember Vito Lopez toward both complainants from early June 2012 until the time they made complaints of sexual harassment in mid-July 2012, including repeated comments about their physical appearance, their bodies, their attire, and their private relationships;
  - That the unwelcome verbal and physical conduct escalated over time;
  - That there were multiple incidents of unwelcome physical conduct toward one complainant, wherein Assemblymember Lopez put his hand on her leg, she removed his hand, and he then put his hand between her upper thighs, putting his hand as far up between her legs as he could go;
  - That Assemblymember Lopez required one of the complainants to take a trip with him to Atlantic City in July 2012, and that he attempted to kiss her, that she struggled to fend him off before he stopped, and that on the drive back from Atlantic City he again put his hand between her legs; and
  - That other incidents of unwelcome physical conduct occurred, including holding one complainant's hand and playing with her hair.
2. That Complainants' perception that such conduct created an intimidating, hostile and offensive working environment was reasonable;
3. That Complainant's allegations that Assemblymember Lopez required both complainants to write to him about how much they loved their jobs and cared about him, and that he criticized their notes for being insufficiently effusive, were credible;
4. That Assemblymember Lopez's response was not credible; and
5. That Assemblymember Lopez violated the Assembly's Sexual Harassment/Retaliation Policy, which appropriately provides that every Assembly employee is entitled to an employment environment free from sexual harassment and that sexual harassment will not be tolerated within the Assembly workplace.

It is the Committee's considered judgment that Assemblymember Lopez's conduct constituted a violation of the Assembly's sexual harassment policy and that such conduct warrants a response which is designed to stop the harassment and ensure that similar harassment does not recur in the future towards other employees, including:

1. That Assemblymember Lopez be immediately removed as Chair of the Assembly Committee on Housing and that he not be appointed as the Chair of any other committee or to any leadership position;

2. That a letter of censure and admonition be issued publicly by the Speaker on behalf of the House, enumerating the findings of the Committee and indicating that Assemblymember Lopez's conduct with respect to this matter violates the Assembly's Policy and is inconsistent with the standards of conduct to which Members of the Assembly should be held;
3. That Assemblymember Lopez is not to have any interns placed or working in his Assembly offices and that he is not to have any employees under the age of 21 in his Assembly offices;
4. That any rights or privileges of seniority currently retained by Assemblymember Lopez be forfeited;
5. That Assemblymember Lopez's staff allocation be reduced in the amounts commensurate with the reassignment of the Complainants to other Assembly offices and not be replaced with new funding; and that his staff allocation be further reduced in the amounts commensurate with the compensation of any employee who leaves employment in his offices and not be replaced with new funding, and that such attrition process remain in effect until Assemblymember Lopez's staff allocation has been reduced to that of a first-term member; and
6. That supplemental sexual harassment training be provided to Assemblymember Lopez and his staff.

The Committee also recommends that the Policy and the sexual harassment training currently provided by the Assembly be reviewed and revised as appropriate.

The Committee makes the foregoing recommendations after due deliberation, mindful of the importance of this investigation to the Assembly, its Members and the People of the State of New York. We respectfully request that you act expeditiously to implement these recommendations.

Respectfully submitted,

Daniel O'Donnell

Chair

John J. McEnery

Michael Ishaq

Kevin A. Cahill

Baron

Ranking Minority Member

Janet L. Deprey

Joseph M. Giglio

Tom Jordan



SHELDON SILVER  
Speaker of the Assembly

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

Room 932  
Legislative Office Building  
Albany, New York 12248  
(518) 455-3791

August 24, 2012

Assemlbmember Vito Lopez  
434 South 5th Street  
Brooklyn, NY 11211

Dear Assemlbmember Lopez:

I have been advised by the Standing Committee on Ethics and Guidance that it has concluded its investigation of a complaint made by two employees of the New York State Assembly alleging that your conduct toward them violated the Assembly's Sexual Harassment/Retaliation Policy.

The Committee unanimously found as follows:

1. That complainants' allegations of unwelcome verbal and physical conduct of a sexual nature were credible, including:
  - That there was pervasive unwelcome verbal conduct by you toward both complainants from early June 2012 until the time they made complaints of sexual harassment in mid-July 2012, including repeated comments about their physical appearance, their bodies, their attire, and their private relationships;
  - That the unwelcome verbal and physical conduct escalated over time;
  - That there were multiple incidents of unwelcome physical conduct toward one complainant, wherein you put your hand on her leg, she removed your hand, and you then put your hand between her upper thighs, putting your hand as far up between her legs as you could go;
  - That you required one of the complainants to take a trip with you to Atlantic City in July 2012, and that you attempted to kiss her, that she struggled to fend you off before you stopped, and that on the drive back from Atlantic City you again put your hand between her legs; and
  - That other incidents of unwelcome physical conduct occurred, including holding one complainant's hand and playing with her hair.
2. That complainants' perception that such conduct created an intimidating, hostile and offensive working environment was reasonable;
3. That complainants' allegations that you required them to write to you about how much they loved their jobs and cared about you, and that you criticized their notes for being insufficiently effusive, were credible;
4. That your response was not credible; and
5. That you violated the Assembly's Sexual Harassment/Retaliation Policy, which appropriately provides that every Assembly employee is entitled to an employment environment free from sexual harassment and that sexual harassment will not be tolerated within the Assembly workplace.

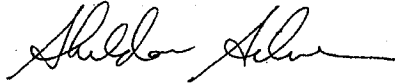
The Committee thereafter offered its considered judgment that your conduct constituted a violation of the Assembly's Sexual Harassment/Retaliation Policy and that such conduct warrants a response which is designed to stop the harassment and ensure that similar harassment does not recur in the future towards other employees. The Committee unanimously recommended the following:

1. That you be immediately removed as Chair of the Assembly Committee on Housing and that you not be appointed as the Chair of any other committee or to any leadership position;
2. That a letter of censure and admonition be issued publicly by the Speaker on behalf of the House, enumerating the findings of the Committee and indicating that your conduct with respect to this matter violates the Assembly's Policy and is inconsistent with the standards of conduct to which Members of the Assembly should be held;
3. That you are not to have any interns placed or working in your Assembly offices and that you are not to have any employees under the age of 21 in your Assembly offices;
4. That any rights or privileges of seniority currently retained by you be forfeited;
5. That your staff allocation be reduced in the amounts commensurate with the reassignment of the complainants to other Assembly offices and not be replaced with new funding; and that your staff allocation be further reduced in the amounts commensurate with the compensation of any employee who leaves employment in your offices and not be replaced with new funding, and that such attrition process remain in effect until your staff allocation has been reduced to that of a first-term member; and
6. That supplemental sexual harassment training be provided to you and your staff.

I accept the recommendations of the Committee, in full. As a result, please be advised that you are hereby removed as Chair of the Committee on Housing, that any rights or privileges of seniority you currently retain are deemed forfeited, and that your staff allocation will be reduced in a manner consistent with the Committee's recommendation. In addition, you are hereby directed that you are not to have any interns placed or working in your offices, or any employees under the age of 21 in your offices. Supplemental sexual harassment training will be scheduled for you and your staff.

Finally, based upon the foregoing and upon the unanimous recommendation of the Committee on Ethics and Guidance, I hereby censure and admonish you on behalf of the New York State Assembly and its Members and declare that your conduct with respect to this matter violates the Assembly's Sexual Harassment/Retaliation Policy and is inconsistent with the standards of conduct to which Members of the Assembly should be held.

Signed,



SPEAKER



WILLIAM F. COLLINS  
COUNSEL TO THE MAJORITY

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

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August 29, 2012

**TELEFAXED AND MAILED**

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RE: Release Concerning Paragraph 17 of June 6, 2012 Settlement Agreement

Dear Ms. Wang, Ms. Allred, and Mr. Lefcourt:

Circumstances arising subsequent to our negotiation and execution of the June 6, 2012 Settlement Agreement have fomented ongoing media inquiries, including but not limited to Freedom of Information Law demands for disclosure of the Agreement, in toto.

In order to provide tangible evidence that all parties were represented by competent counsel, that the Agreement completely resolved and obviated any legal claims, and that there was nothing improper, illegal or unethical about the process by which the Agreement, we are requesting authority to release a redacted copy of the Agreement; i.e., with the Employees names and any identifying information redacted. We propose to do this with your acquiescence/release indicated by countersigning of this letter.



Please advise concerning your position in this regard as soon as possible.

Very truly yours,

*William F. Collins*

William F. Collins

Pursuant to and in accordance with the above terms, on behalf of our client(s), we concur in this limited Release of the Assembly from the confidentiality terms of Paragraph 17 of the June 6, 2012 Settlement Agreement exclusively for the above-referenced purposes by our signatures below:

\_\_\_\_\_  
Gerald Lefcourt, Esq. for Member of Assembly Vito Lopez

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mariann Wang, Esq. for [REDACTED]

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gloria Allred, Esq. for [REDACTED]

\_\_\_\_\_  
Date

## Carolyn Kearns

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**From:** William Collins [collinsw@assembly.state.ny.us]  
**Sent:** Tuesday, August 28, 2012 11:04 AM  
**To:** 'Michael Whyland'; 'James Yates'; 'Carolyn Kearns'  
**Subject:** FW: Statements to the press

We are under no legal obligation to acquiesce to Ms. Wang's request, however, the facts are as follows:  
Before we could assemble what we felt we needed to go to turn the first situation over to the Ethics Committee we got a letter from Ms. Wang labeled "Privileged and Confidential For Settlement Purpose Only" with these components:

1. saying we could not talk to her clients,
2. asserting allegations of harassment and discrimination by the Assemblyman,
3. indicting that they would be able to seek redress in any of various forums, and
4. stating her clients desires to commence mediation, and
5. reserving their rights to seek monetary and equitable relief.

We took all of this to mean they wanted us to consider mediating a resolution as their entire "remedy". It is true that neither she nor the complainants never expressly, affirmatively "insisted" that this matter not be referred to the Ethics Committee. That was the reason for my suggestion that we say that it would be up to a complainant to interpose and pursue a complaint under the Assembly Sexual Harassment Policy; i.e., it requires their affirmative action which they seemed not to desire to undertake. These people did not affirmatively insist that we not refer these allegations to the Committee. That seems to be the thrust of Ms. Wang's position and it is not inaccurate.

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**From:** Mariann Wang [mailto:mwang@chwillp.com]  
**Sent:** Tuesday, August 28, 2012 10:34 AM  
**To:** William Collins  
**Subject:** Statements to the press

Bill:

The New York Times reported that Whyland made the statements below. As you know clearly from multiple communications that I made throughout January going forward -- by both email and on the phone -- this is a complete misrepresentation of the facts in this case. I expressed this as much yesterday to the Speaker's counsel on the phone. This is not a message that the Assembly should be repeating since it is completely inaccurate. Indeed, the proper course would be that Whyland correct it.

Mariann

Cuti Hecker Wang LLP

In a statement Monday, Michael Whyland, an Assembly spokesman, would not specifically discuss the settlement, but generally speaking, said: "The only instance in which a complaint would not be handled by the ethics committee would be if a victim insisted for reasons of personal privacy that it not go before the committee. The Assembly would only keep such a matter confidential at the express insistence of the victim."

# 2011-2012 PERSONNEL ACTION REQUEST

**A** Social Security Number: [redacted] First Name: [redacted] M.I.: [redacted] Last Name: [redacted] Sfx: [redacted]

- New Employee** (Not employed in Assembly since January 1, 1983)—Complete Blocks A, B, C, D, F, G, I, and J.
- Reinstated/Reappointed** (Previously employed in Assembly since January 1, 1983)—Complete Blocks A, B, C, D, F, G, I, and J.
- Transfer** (Employee transferring from one Member/Unit to another Member/Unit)—Complete Blocks A, B, C, D, F, G, I, and J.
- Salary Adjustment** (No change in Payroll Designation)—Complete Blocks A, C, E, I, and J. B for Title Changes.
- Change of Employment Dates and/or Payroll Designation**—Complete Blocks A, B, C, D, F (if applicable), G (if applicable), I, and J.
- Personnel Actions not Affecting Allocations**—Complete Blocks A, B, C, I, and J as needed.
- Terminations, Resignations, Leave Without Pay**—Complete Blocks A, H, I, and J as needed.

**B** Member/Unit: Hon. Vito J. Lopez ( B45 )  
 Job Title: \_\_\_\_\_ ( \_\_\_\_\_ )  
(A completed "Oath of Office", and "Job Description" and "Employee Designation—Financial Disclosure" must accompany this PAR)  
 Payroll Designation:  Annual Full Time (A)  Annual Legislative (L)  Annual Part Time (P)  Session (S)  
 (Check one box)  Temporary (T)  
 Supervisor: \_\_\_\_\_ Designated Time Sheet Supervisor: \_\_\_\_\_  
 Public Information Address: (Please check appropriate box)  
 Capitol, Albany  Other \_\_\_\_\_  
(Must be a District Office address or other official Assembly address)  
 Work Address: (Location where employee is assigned) \_\_\_\_\_ Tel. #: ( \_\_\_\_\_ )  
 Mailing Address: Payroll Check Distribution (Complete if different from Public Information Address.)  
 Must be a District Office address or other official Assembly address. \_\_\_\_\_

**C** Term of This Employment Authorization  
 Beginning Date: 1/1/2012 End Date: (Check the box which applies):  
 12/31/11  
 12/31/12  
 Other \_\_\_\_\_

**D** Salary  
 Annual Full Time (A), Annual Legislative (L) or Annual Part-Time (P) Payrolls: \$ \_\_\_\_\_ Annual Salary Rate  
 Session (S) or Temporary (T) Payrolls: \$ \_\_\_\_\_ Total Salary Amount for the period of employment

**E** Salary Increase/Decrease (For Salary Adjustments only)  
 New Annual Salary Rate (Applies to A, L, P Payroll types only)  
 Amount: \$ 72,000  
 Salary Adjustment for Period Specified in Block C (Applies to any payroll type)  
 Amount: \$ \_\_\_\_\_  
 Increase  Decrease

**F** Leave Accruals  
 Complete this section for New, Reinstated, Reappointed or Transferring employees; or Payroll Designation changes. Check only one box.  
*For A, L, P Payrolls Only*  
 I authorize the Assembly Human Resources Department/Minority Administration and Personnel to compute leave accruals in accordance with the "Rules and Regulations Relating to the Crediting and Reporting of Time and Attendance", and I do not wish to set limits on the availability or use of leave.  
**This is mandatory for all S, T Payrolls and optional for A, L, P Payrolls**  
 I will complete a Time Bank Form for this employee. (Check this box if you wish to limit the availability or use of leave in accordance with the "Rules and Regulations Relating to the Crediting and Reporting of Time and Attendance").

**G** Benefits Eligibility  
 For Annual Part-Time (P), Session (S) and Temporary (T) Payrolls, please estimate over the period of employment, the average anticipated hours per pay period \_\_\_\_\_ Note: Limited benefits are available to employees on the Session "S" and Temporary "T" Payrolls.

**H** Termination, Resignation, Leave without Pay  
 Check the appropriate box and explain under "Reason" below:  
 TERMINATION  RESIGNATION  LWOP  OTHER  
 Ending Date: \_\_\_\_\_ Reason/Name of New Employer if State Agency: \_\_\_\_\_  
 Mo. \_\_\_\_\_ Day \_\_\_\_\_ Yr. \_\_\_\_\_  
 Please enter anticipated date of return: \_\_\_\_\_

**I** APPOINTING AUTHORITY/DEPARTMENT HEAD SIGNATURE [Signature]  
 Appointing Authority/Department Head Name (please type) Vito J. Lopez  
 Date: \_\_\_\_\_ Unit Code: \_\_\_\_\_

**J** Remarks: salary increase

