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CHARLES D. LAVINE  
Assemblyman 13<sup>th</sup> District

CHAIR  
Ethics and Guidance Committee

CO-CHAIR  
Legislative Ethics Commission

June 21, 2017

Honorable Carl E. Heastie  
Speaker  
New York State Assembly  
Legislative Office Building Room 932  
Albany, New York 12248

Dear Speaker Heastie:

As you know, the Ethics Committee has jurisdiction over, and is responsible for, investigating complaints that the New York State Assembly Policy Prohibiting Harassment, Discrimination, and Retaliation ("Policy") was violated. We are writing to summarize the results of a recent investigation against Assembly Member Steven F. McLaughlin and to make our findings and recommendations to you, in accordance with the Policy.

On June 15, 2016 Merrick Rossein, the Ethics Committee's independent counsel and neutral investigator learned that a female Assembly employee had reported to a mandated reporter that an Assembly Member had made offensive lewd comments to her. Mr. Rossein promptly reported to Chair Lavine that he had received this information about a potential violation of the Policy and Chair Lavine directed Mr. Rossein to commence an investigation.

Chair Lavine called the Assembly Member to inform him of the complaint and cautioned him about any retaliation. Later that day, Chair Lavine confirmed the conversation by email to the Assembly Member and, in accordance with the Policy, transmitted to the Assembly Member a notice prohibiting retaliation against any Assembly employee or Member and informing him of his confidentiality obligations.

Rossein Associates conducted a thorough investigation, including interviewing ten (10) witnesses, including the Assembly Member, the employee who alleged the Policy violation and the mandated reporter. Rossein Associates also reviewed a videotape, some texts and emails.

On October 10, 2017 Rossein Associates issued a Report to the Committee (amended on February 15, 2017). The Committee initially met on October 24, 2016 to review the Report and evidence.

After its meeting, and in accordance with the Policy, the Ethics Committee issued a notice to the Assembly Member, dated November 1, 2017, providing him with the allegations that he had engaged in sexual harassment hostile work environment and, among other things, offered him the opportunity to appear before the Ethics Committee and submit a sworn statement, or a statement from his counsel. The Ethics Committee held meetings on January 9, 2017 and February 1, 2017 at which they took testimony from the Assembly Member, the accuser, the mandated reporter, and other Assembly Members and employees. The Assembly Member also submitted a written statement, sworn to on February 1, 2017.

The Ethics Committee carefully reviewed and considered the evidence, including the Rossein Associates Report and its exhibits; the transcript of the Assembly Member's interview with the investigator, the transcript of his sworn testimony and subsequent sworn statement; some of the witness' signed statements; the video; and all of the testimony before it.

The Ethics Committee found that the alleged comments, if made, would constitute a violation of the Policy. The Ethics Committee split 4-4 on whether there was sufficient evidence to demonstrate that a violation of the Policy was committed by the Member as alleged in the complaint.

Nevertheless the Ethics Committee members unanimously agreed that the accused Member and the Assembly would benefit from receiving an additional 2-3 hours of sensitivity training. They further agreed that the Assembly Member should voluntarily participate in such training. Under those circumstances, both Chair Lavine and Rossein Associates would maintain a note in their files confirming completion of the training. The accused Member was notified of the Ethics Committee's conclusion, and although he initially declined the opportunity to take the individual enhanced training, he has since indicated through his counsel that this arrangement would be acceptable.

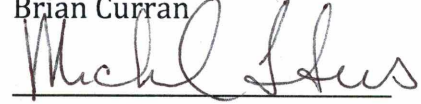
Under the circumstances, and in light of the fact that the Committee did not reach a majority decision, we write to recommend that, if the Assembly Member complies with the training obligations outlined above within four weeks of today, the Speaker would issue a confidential letter directing the Assembly Member not to engage in any retaliation against the complaining party or anyone he believes to have been a witness in the investigation. The Ethics Committee has arranged for individualized and confidential training to carry out this result. If the Ethics Committee learns that the Assembly Member has not met the training deadline, or has otherwise failed to participate in good faith, we will so advise the Speaker.

We believe the proposed Speaker's letter mandating non-retaliation should not be made public. Policy §VIII (A) says, in its final sentence, that, "Any findings and discipline [by the Speaker] shall be made public." We do not believe that this resolution constitutes either findings or discipline by the Speaker and therefore a confidential letter should be consistent with the Policy.

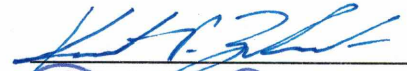
Respectfully submitted,



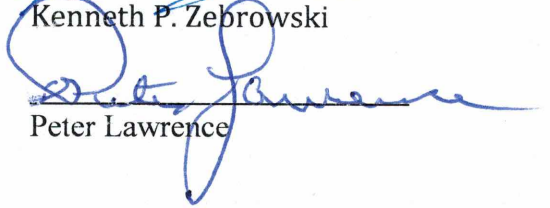
Brian Curran



Michele Titus



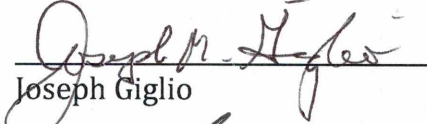
Kenneth P. Zebrowski



Peter Lawrence



Chair, Charles Lavine



Joseph Giglio



Michael A. Montesano



Aravella Simotas

cc: Assembly Member Brian M. Kolb