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Attorney-Client Privileged Communication

February 12, 2018

Via Email

Steven Miller, Esq.
Angela Clements, Esq.
Hanson Bridgett LLP
425 Market Street, Suite 2600
San Francisco, CA 94105

Re: **Fact-Finding Investigation Report**

Dear Mr. Miller and Ms. Clements:

The following is my fact-finding investigation report for the San Mateo County Harbor District ("District").

Background and Scope of Investigation

In my role as a neutral fact-finder, I conducted an investigation into allegations raised by Commissioner Sabrina Brennan that she was sexually harassed and retaliated against by Commissioner Tom Mattusch. The specifics are detailed below.

I interviewed Sabrina Brennan, Tom Mattusch and Steve McGrath in-person and telephonically. Mattusch was represented in his interviews by attorney Geoffrey Spellberg of Renne Sloan Holtzman Sakai Public Law Group.

I reviewed relevant electronic and hard copy documents, photographs and other information, as described below. I reviewed various documents and videos posted on the District's website, including the Board of Commissioners meetings on August 16, 2017, October 18, 2017 and January 17, 2018. I determined that these were the most relevant meetings to review.



I made the determinations as to the individuals I interviewed and the information I gathered throughout the course of this investigation. I provided Angela Clements (Senior Counsel at Hanson Bridgett) with status updates and in some instances, she provided me with status updates and information that I requested.

There was an initial delay in proceeding with this investigation. I was retained on November 10, 2017. I contacted Brennan via email on November 13 to schedule her interview. Initially, she replied that she was only available on Sundays due to her work schedule. I offered to meet on Sunday, November 19, or after 5 pm on November 20-22. Upon her request, her interview was scheduled for November 29.

Brennan requested that I record my initial interview of her on November 29, stating that she wanted to provide it to her attorney who would not be attending the interview. I agreed to and did record the interview as did Brennan. We both recorded my follow-up telephonic interview on January 24. I requested that Brennan maintain her recordings in a confidential manner during the course of the investigation and I stated that I would do the same regarding my recordings of the interview.

There was also a delay in scheduling my interview of Mattusch. I contacted him on November 30 and proposed an interview date. Since I did not receive a response, I emailed him again on December 6, requesting that he let me know by December 11 if he would agree to be interviewed. On December 12, Mattusch and his counsel confirmed Mattusch's interview for December 14. Mattusch's counsel requested that I record my initial interview of Mattusch, which I did. I did not record my subsequent telephonic interviews of Mattusch. His attorney was present during his interviews.

On December 5 and 11, I followed up with Brennan to request that she provide any additional emails or other data relative to her complaints against Mattusch since she stated in her initial interview that there may be other examples of offending behavior. On January 15, Brennan emailed me, stating that there were additional events not previously covered. On January 16, I contacted Brennan to schedule a telephonic interview to go over these additional allegations. The interview occurred on Brennan's first available date of January 24. I conducted a follow-up interview with Mattusch on January 26.

On December 19, Brennan raised a complaint against McGrath. Her allegations included that McGrath was acting as a surrogate for Mattusch. To date, I have not been requested to investigate Brennan's December 19 complaint against McGrath. To the extent that Brennan's allegations against McGrath relate to Mattusch, I address those issues below.



During my interview of Brennan, she asked if I could or would be expanding the scope of the investigation to include the culture of harassment and retaliation at the District and, in doing so, to interview others who had been harassed. She did not identify any individuals by name, although she confirmed that she was unaware that Mattusch had harassed anyone except her. I am not at liberty to unilaterally expand the scope of the investigation. To date, I have not been asked to expand the scope of this investigation to include allegations regarding the culture at the District.

Applicable Policies

There are two Harassment and Retaliation policies that apply to this matter due to the dates of the events that are the subject of Brennan's complaint.

The prior policy was approved in January 2006. It prohibits harassment and retaliation by District elected representatives, officers, employee or contractors. It does not address harassment or retaliation by a member of the public against a District elected representative, officer, employee or contractor. (See Exhibit 1)

The current policy was revised in August 2016. Section II.E. references harassment by those who are not employees, such as "Harbor Commissioners, persons providing services under contracts, or even members of the public." The policy also provides a detailed complaint procedure. (See Exhibit 2)

Factual Findings

1. Pertinent Sequence of Events Regarding Brennan's Complaint

On October 24, 2017, Brennan and Commissioner Larenas met with McGrath.¹ In her investigation interview, Brennan stated that she did not go into detail with McGrath about her allegations regarding Mattusch. She said she had not raised them earlier because there was not much incentive to do so and she did not believe anything positive would happen due to how she perceived other complaints had been addressed. She decided to raise the issues in October because she was upset by watching media coverage of the California Senate and nobody was saying who the harassers were. She then realized that she had not called out Mattusch for harassment and retaliation and that she should do so.

¹ It appears from newspaper reports that Brennan communicated with the Half Moon Bay Review regarding her allegations against Mattusch prior to her meeting with McGrath.



McGrath recalled that towards the end of the meeting, Brennan brought up a prior investigation at the District because the investigator (Amy Oppenheimer) had been in the news due to her having been retained by the State Senate to conduct investigations. According to McGrath, Brennan asked Larenas if he had seen a prior complaint that she had filed with the Department of Fair Employment and Housing (unrelated to Mattusch), which she had with her. Brennan told McGrath that she was working on a press release about the District. She then said that Mattusch had harassed her and that she regretted supporting him in 2014.

According to McGrath, Brennan did not elaborate on Mattusch harassing her and said that was all she was going to say about it. He recalled that she also stated that when she asked Mattusch to stop, he did, although retaliation had continued, which she did not elaborate upon. McGrath recalled telling Brennan that the District takes these types of concerns seriously. He did not say what he would or would not do. After the meeting, he informed legal counsel for the District, Steven Miller and Arlin Kachalia.

On October 25, Brennan emailed McGrath (and copied Larenas) stating: “sexual harassment I reported stoped (sic) after I confronted Tom Mattusch about it but the retaliation continues. The Harbor District has a responsibility to protect board members and employees from retaliation.” (See Exhibit 3)

On October 26, Miller emailed Brennan to inform her that McGrath had forwarded her email to him and to ask her to discuss the facts. Brennan replied then, and at various times thereafter, that it was inappropriate for Miller's firm to investigate her complaint.²

On November 8, the Half Moon Bay Review published an article regarding Brennan's allegations and on November 9, she was interviewed on NBC News, which also posted an article with the allegations. As noted, I was retained on November 10.

2. Brennan Assisted Mattusch's Campaign for Commissioner (2014)

Brennan was initially elected as a Commissioner in 2012. She recalled meeting Mattusch in 2013 or 2014. She acknowledged that she supported Mattusch when he ran for Commissioner in the 2014 election because he was not as bad as the Board that was in place at the time. She noted that Mattusch was a charterboat captain who was visible in the community although he was not always sympathetic towards the commercial fishermen. She told me that she not know him very well at that time.

² During this investigation, Brennan has referred to prior investigations and has alleged that a matter regarding a former Commissioner was not investigated, although it is my understanding that it was.



Mattusch recalled meeting Brennan sometime in 2009. He stated that they communicated more in 2014, noting that they had similar interests regarding the harbor. He told me that Brennan asked him if he would run for Commissioner in 2014 and that she was 100% behind his campaign. He stated that they met regularly about the campaign. When he went on a trip, he gave her his computer, password and credit card for her to campaign for him.

Mattusch was elected as Commissioner in November 2014; his term began January 2015.

3. Mattusch Invites Brennan and Others on Safari Trip (May 2014)

Brennan stated that sometime in May 2014, Mattusch invited her to join him on a safari in Tanzania. She believed that he initially asked her in person and they may have been on his boat at the time. She recalled that Mattusch told her he was going to Tanzania, his wife could not go, all expenses would be paid, and Brennan would only have to show up.

Brennan sent Mattusch an email, dated May 20, 2014, stating that she was catching up on voicemail. She then wrote: "The trip sounds great but what about the election . . . What date do you leave and how long is the trip?" She then wrote that her sister used to live in Senegal. Mattusch replied to the email on May 21, in which he wrote: "9/15-10/12." (See Exhibit 4)

Brennan told me that she was surprised by Mattusch's invitation because at the time, Mattusch was trying to get her to work on his campaign and she could not believe that he would be gone during an important part of the campaign. She also could not understand why he asked her to go on the trip because he knew she is lesbian and married and he is also married. She stated that it was clear to her that they would be staying in a tent that would have been shared because he was originally supposed to go with his wife. At the time, she thought he was crazy and that he was the wrong candidate, because he was opting to be gone during the campaign and because he is a safari hunter. She did not tell him she thought this way at the time.

Brennan recalled having several subsequent conversations with Mattusch in which he would ask her if she thought more about the trip. At some point, she asked him what his wife would think if Brennan went with him and what Brennan's wife would think. Brennan stated that Mattusch replied that he would not tell his wife.

According to Mattusch, he asked Brennan and 10 other friends, including a female friend of his wife (Carol Delmar), if they wanted to go on the safari trip. He recalled that he told Brennan that his wife could not go on the trip so there was an extra spot if she wanted to go and take photographs. He told her that he had paid for the trip, except she would have to pay for the



air fare. He stated that Brennan mentioned something about talking with her wife about it. He told me that he and Brennan discussed the optics with the upcoming election since they were both married and they both could not be gone during the campaign. He did not recall her asking about what the sleeping arrangements would be on the safari. He did not believe that she seemed offended or put off by the hunting aspect of the safari. He believed that she did not go because of the cost of the air fare and due to the timing of the election.

Mattusch denied having any romantic or sexual interest in Brennan in general and denied that such an interest played any role in inviting her on the trip. He reiterated that he asked Brennan along with 10 other friends simply because he had pre-paid for two people. He provided me with a list of the other individuals.³

Neither Mattusch nor Brennan described having any subsequent conversations about Mattusch's invitation to Brennan.

4. Mattusch Emails Photographs of Naked Women to Brennan and Others (June 12, 2014)

Brennan provided me with an email from Mattusch, dated June 12, 2014, with the subject line, "My last vacation photos." It includes a series of nine photographs with captions. All of the photographs, except one, are of naked women in sexually explicit poses. The email was sent from Mattusch to Mattusch, suggesting that Brennan was blindcopied. (See Exhibit 5)

Brennan told me that she was very offended when she received the email and immediately forwarded it to her wife who was also offended. She then told Mattusch by phone to never do that again and that he should not send anyone else pictures like that because he was a candidate. She stated that he did not apologize to her, but said it was just a joke and that she did not understand his sense of humor.

Brennan acknowledged that Mattusch did not send any emails or photos like this to her again.

Mattusch admitted that he sent the email to Brennan along with a group of 41 others. He provided me with a screen shot of the email showing the "bcc" distribution list, along with most of the phone numbers for these individuals. It appears that there was one other female on the distribution list, aside from Brennan.

³ I did not interview these individuals since the invitation from Mattusch to Brennan was relevant for this fact-finding.



Mattusch stated that he believed Brennan would think the email was funny because she is lesbian and the two of them had prior conversations about Brennan being "out." Mattusch recalled that Brennan told him after receiving the email that she had received these kinds of emails from her lesbian friends all the time. He denied that she told him she was offended or that she said he should never do it again. He further denied that she expressed concern about a negative impact on the campaign. He said she seemed blasé about it in general.

Brennan acknowledged that Mattusch did not send very many emails to her. She explained that she located the June 2014 email by searching through her old computer back-ups, although it is unclear specifically what prompted her to do so and when she located it.

In her initial interview in November 2017, Brennan stated that Mattusch sent her other emails that were inappropriate but she promptly deleted them without saying anything to him. She did not provide specific examples, indicating that she would have to go back through her archived computer records to do a search and she did not have time to do so. As noted above, I followed up with Brennan multiple times, including conducting a follow-up telephonic interview. To date, Brennan has not provided a description of any other emails from Mattusch that she found offensive or inappropriate.

In my interview of Mattusch, he provided examples of other emails that he sent to distribution lists that included Brennan. None of these examples included anything sexual, for example, one included daredevil adventure photographs and another included a cartoon with a Grateful Dead joke.

5. Brennan Alleges that Mattusch Hugged Her at Various Times

Brennan stated that Mattusch has hugged her in a creepy and weird way that lingers too long, which has made her uncomfortable. She also described it as a bear hug in which he pulls her close. She stated that it has happened so many times that they all blended together and she could not recall the most recent time that he hugged her.

Brennan described an occasion in 2015 when Mattusch went to her home to try to talk her into resigning as Board President. She said that her wife had a recording of the conversation. When Mattusch was leaving, he gave her one of these hugs in front of her wife who freaked out about it. Brennan stated that Mattusch probably felt like he was giving her advice and his hug was a way of saying goodbye as he was leaving.



Brennan stated that Mattusch hugs other women in the same way. She said that she had recently heard from one of the commercial fishermen that Mattusch has stared at the fishermen's wife's breasts and has hugged and rubbed up against her.

Mattusch denied ever hugging Brennan. He stated that neither he nor Brennan are the hugging type and noted that they are both married.

On January 15, 2018, Brennan emailed me a photograph, depicting Mattusch with a group of individuals and Santa Claus. Mattusch has his arm around a woman standing next to him. Brennan stated in her email that the woman in the photo was a former District employee and that Mattusch "pulled her close." She then wrote that looking at this photo reminded her of Mattusch inappropriately touching Brennan. (See Exhibit 6)

In her interview, Brennan acknowledged that she did not take the photo nor did she attend the event where the photo was taken. She found it posted on a website or Facebook. She did not know the woman's name and said she had no idea if the woman was uncomfortable but if the Board President put his arm around her, she would be surprised if there was no complaint about it.

Mattusch stated that the photo was taken at the boat lighting festival at the Oyster Point Marina in 2015. He noted that he had his arm around both the woman in the photo (Michelle Reloba) and the man on his other side (Neil McGeehan). He noted that the photo was taken so that it could be used in news events for the District.

6. Mattusch Sent Brennan Flowers (May 2015)

In her November interview, Brennan told me that Mattusch had sent her a large bouquet of flowers in 2015 when he was trying to pressure her to quit the board. She stated that the flowers seemed like an apology from Mattusch. On January 15, 2018, Brennan emailed me a photograph of the flowers, which appears to have been taken on May 27, 2015. (See Exhibit 6) She recalled that there was a card with the flowers. After she took a photo of the flowers, she threw them away but kept the card. She declined to say what she remembered that the card said and wanted to look for the card. To date, she has not provided the card.

According to Mattusch, he sent the flowers after conversing with Kathryn Slater Carter (another elected official) and they both concluded that Brennan needed to be cheered up. Mattusch stated that Brennan was extremely despondent after having been removed as Board President. Mattusch characterized the flowers as a gesture to raise Brennan's spirits.



7. Brennan Alleges that Mattusch Tried to Discuss Sex with Her (2015)

In her November interview, Brennan stated that at various times during social dinners following Board trainings or other events, Mattusch has tried to talk to her about sex and lesbian sex. She noted that this occurred in 2015 at the Napa Special Districts Association training, the Sacramento legislative day event, and possibly other times. She said that it usually occurred when Mattusch was drinking and it always happened when nobody else was around. She noted that she would only discuss business matters and otherwise would change the subject or leave.

Brennan's January 15 email stated that: "These photos [referring to the flowers and the group with Santa] remind me of additional excruciating sexual harassment and vindictive behavior that I would like to add to my sexual harassment and retaliation complaint against Tom Mattusch." (See Exhibit 6) When asked to describe these additional behaviors, Brennan referred to a dinner she had with Mattusch at the Sacramento legislative day in May 2015. At the dinner, attended by Brennan and Mattusch, she was very upset because earlier in the day she had received bad news that the Interim General Manager had emailed false allegations to the staff about her. She stated that Mattusch repeatedly made sexual comments and asked her about lesbian sex. She did not engage with him in the conversation. She said that he tried to touch her hand on the table. She then got up and quickly left the restaurant. She recalled that Mattusch wanted her to stay.

Brennan stated that Mattusch's behavior felt predatory and that he was taking advantage of her because she was upset. She stated that this was the worst, most egregious incident that occurred with Mattusch and that thereafter, she did a good job of avoiding him in social settings.

Brennan acknowledged that Mattusch has not touched her other than on the hand at the dinner in May 2015 and the occasions when he has hugged her.

Mattusch denied ever talking to Brennan about sex or lesbian sex. He denied that it ever came up in conversation or that Brennan ever talked about these subjects.

8. Brennan Alleges Mattusch Had an Inappropriate Meeting With Her in His Truck (2016 or 2017)

Brennan described the following as an inappropriate meeting and believed that it occurred in 2016. She recalled that she went to Mattusch's house to discuss a District issue regarding a contractor. She stated that Mattusch's wife was drunk and that Mattusch had been drinking. At some point, Mattusch wanted to show her his new truck, specifically the seats



which had a massage feature. She and Mattusch sat in the truck together. Mattusch did not touch her or say anything offensive but she thought to herself that she had to put up with a lot.

Mattusch recalled that Brennan was at his home in January 2017 to discuss something regarding the District. He stated that she became unglued at one point and began asking him if his wife had voted for Trump. He told her that he doubted it. Brennan then said that Mattusch probably voted for Trump. Mattusch recalled that at the time, his wife was watching TV but he was not sure if the news was on or what triggered the comments.

Mattusch stated that Brennan calmed down and they discussed the features on her car and his new truck. He said that Brennan wanted to see his new truck so they sat in it, at which point he showed her the seat warming and massage features. He stated that she never seemed uncomfortable.

9. Brennan Alleges Mattusch Retaliated Against Her By Removing Her From Committees (2017)

Brennan stated that Mattusch began retaliating against her for her rejection of him after he became Board President in 2015, and that it gradually got worse. She said that she kept hoping that things would get better.

The Board President has discretion to appoint and remove Commissioners from committee assignments. Mattusch was elected President in mid-2015 after Brennan resigned as President. Mattusch was re-elected as President in 2016 and 2017.

Mattusch appointed Brennan to the Oyster Point Marina (OPM) Committee in February 2016. In January 2017, Mattusch appointed himself and Commissioner Chang Kiraly to the OPM Committee, thus effectively removing Brennan from the committee.

The members of the OPM Committee serve as the District's representatives on the OPM Joint Liaison Committee (sometimes referred to as the Joint Agency Committee or the Joint Special Committee), along with two South San Francisco City Councilmembers.

At the August 2017 Board meeting, Mattusch removed Brennan from the Finance Committee. In his interview, Mattusch explained that Brennan was removed due to her behavior in a meeting of the OPM Joint Liaison Committee on August 2, 2017, in which she was not allowed to speak due to the Brown Act requirements, but she continued to do so. He told me that he intervened to prevent Brennan from being arrested at the meeting.



Brennan currently serves on the ad-hoc Strategic Planning Committee. She noted that it is not an active committee and thus, she does not serve on any active committees.

In addition to her removal from certain committees, Brennan stated that Mattusch has boxed her out by voting against her motion to have a “committee as a whole.” She explained that this would have enabled her and other Commissioners to attend all committee meetings and ask questions without running afoul of the Brown Act.

McGrath prepared a Staff Report on this subject and submitted it to the Board. The matter was voted on at the November 15, 2017 Board meeting. It resulted in a tie vote such that the motion did not carry. Mattusch voted against it; Brennan voted for it.

10. Brennan Alleges Mattusch Retaliated Against Her By Interfering with Brennan's Agenda Items and Ability to be an Effective Commissioner

Brennan alleged that Mattusch has repeatedly blocked her from contributing agenda items at Board meetings. This allegation appears to include Mattusch ending Board meetings before all of the agenda items are heard, even though a majority vote is required to continue a Board meeting beyond the slated time period. Agenda items that are not heard do not automatically roll over to the next meeting.

Resolution 19-13 governs agenda setting for Board meetings. This Resolution was amended May 20, 2015 to provide that each Commissioner would be allowed one agenda item per meeting. Brennan voted for this resolution. Commissioners must provide their agenda item by noon on the eighth day prior to the Board meeting. McGrath told me that he has no discretion such that if an agenda item is submitted by a Commissioner within the time deadline, it is added to the agenda. He stated that he has applied this policy uniformly amongst the Commissioners. He also noted that he provides the Commissioners with a summary of the agenda items in advance of each meeting.

At the October and November 2017 Board meetings, Mattusch directed that Commissioner items not heard at the prior meetings be included in the next Board meeting agenda. The October Board meeting agenda included an agenda item from Brennan regarding "legal fees" which was not heard at the September Board meeting. The October agenda also included a second agenda item submitted by Brennan, called "Commissioner serving two incompatible offices." These two agenda items were not heard at the October meeting (according to the minutes). The same agenda items were included on the November agenda.



On October 18, 2017, McGrath prepared a Staff Report regarding Resolution 19-13, with the subject line, "Placement and Continuation of Commissioner Items on the Agenda," which described alternative ways to address Commissioner items that were not heard on the agenda. This matter was not heard at the October Board meeting.

On November 15, McGrath submitted a Staff Report with the subject line, "Policy re Continuation of Unfinished Business Items on the Agenda," regarding Resolution 19-13. This report notes that the November agenda included two carry over items from Brennan, as well as one new and one carry over item from Commissioner Larenas. The report then requested input from the Board to clarify its intent.

At the November meeting, a motion was made that each Commissioner would be able to place one new agenda item per meeting, up to twelve per year. The motion further stated that if an item was not heard due to time constraints, the item would roll over to the following meeting, but it would not preclude the Commissioner from having an additional item. The motion failed due to a tie vote. Brennan voted in favor; Mattusch voted against.

As noted, Brennan raised a complaint regarding McGrath on December 19. One of her allegations was that McGrath works as a surrogate for Mattusch and her agenda items are routinely not heard. She further alleged that McGrath removed her agenda items whereas other Commissioner items were placed on the agenda under McGrath's name so they would be addressed earlier in the meeting and would presumably not count towards the one agenda item limit for the Commissioners. Brennan has not identified any specific agenda items that she alleges were removed (whether by Mattusch, McGrath or anyone else). She stated that the December 2017 agenda included an item regarding the Pillar Point RV Lot, and she suggested that this ought to have been listed as a Commissioner item, although she did not specify which Commissioner. Brennan did not clarify what she meant by McGrath being a surrogate for Mattusch.⁴

McGrath and Mattusch deny that Mattusch directed McGrath to exclude Brennan's requested agenda items or to have McGrath put his name on agenda items that should have been Commissioner items. McGrath explained the necessity of having the Pillar Point RV lot issue on the agenda because the Board needed to be aware of a potential citation.

Mattusch denied that he has taken any action to negatively impact the issues that Brennan is interested in as a Commissioner. He told me that Brennan has the floor at Board and

⁴ I requested clarification via email on December 20 and January 2.



Committee meetings longer than all of the other Commissioners and all of the staff put together. He stated that she talks incessantly without making any points.

11. Brennan Alleges Mattusch has Retaliated Against her by Being Rude and Intimidating in Board Meetings

Brennan stated that Mattusch has made subtle threats to intimidate her by saying politically charged things, for example, that the San Mateo Board of Supervisors will agree with him on various points. She further stated that Mattusch is rude to her in Board meetings.

Both Brennan and Mattusch requested that I review videos of Board meetings. Mattusch specifically requested that I review the meetings in May 2015, August 2017 and October 2017. He stated they would show professional disagreements between Mattusch and Brennan.

Brennan pointed out that Mattusch removed her from the Finance Committee in August 2017, stating that "actions have consequences" and that she better watch because more was coming. She said this felt threatening. She stated that she told him he should have contacted her in advance of the meeting to explain.

Mattusch acknowledged that he said at the August 2017 Board meeting that actions have consequences but noted that he did not call her out by name in the meeting. He recalled saying that all Commissioners were to behave professionally.

I reviewed the August 2017 Board meeting video. Mattusch stated that over the past several months, he had asked for decorum but that, at some point, he had to say that actions have consequences. He then said he would repopulate the Finance Committee with Larenas and Chang Kiraly. I did not hear Mattusch say that Brennan should watch out for more actions that would be taken or words to this effect. Later in the meeting, Brennan stated that she was disappointed that Mattusch had removed her and that she had worked hard to start the Committee and kept it going. She said that the decision disrespected her and the work she had done.

I reviewed the video of the October 2017 Board meeting. Mattusch attended the meeting via phone. During a discussion of agenda item number 9, regarding Pillar Point Harbor, Oyster Point Marina Electrical Improvement Project, Brennan asked about a dollar amount. Mattusch stated that he was dismayed that a Commissioner had not read the Board packet because the information was included. He did not mention Brennan's name. Brennan stated that she did not appreciate Mattusch's chastising tone, noting that she had not used such a tone.



In his interview, Mattusch described this meeting, pointing out that Brennan had a problem with the agenda item and demanded to know a dollar amount that was in the board packet. When Mattusch pointed this out, Brennan seemed shocked that he said that.

According to the video, later in the meeting, Mattusch commented that the Board should not be micromanaging the operations of the District. Brennan then said that Mattusch was micromanaging the Board. Chang Kiraly, who was running the meeting, told Brennan she was out of order. Brennan replied that she was sick of being chastised and stated, "this is harassment."

I reviewed the video of the January 2018 Board meeting. Brennan requested that I do so. The following is a summary of a small portion of the meeting, involving a heated exchange between Mattusch and Brennan. After McGrath's statement regarding Brennan's complaint against him and Brennan's comments in response, Mattusch stated that he was disappointed by Brennan's complaint against McGrath. McGrath had described the number of agenda items Brennan had requested (19) compared to the other Commissioners (8). Mattusch referenced this and stated that Brennan lies consistently, including her complaint against Mattusch. Brennan referred to having Mattusch's email with the naked photos on her computer at the meeting, which she would send to anyone who asked. She then called Mattusch a pervert.

In my January 24 interview of Brennan, she stated that the January Board meeting was not the first time that Mattusch used a demeaning tone with her and that the meeting represented the type of abusive behavior she experienced at prior meetings. She said that Mattusch has put her on trial in meetings and, within the last six months, has had friends show up to be critical of her.

According to Brennan, Mattusch has gotten District staff to be on his side and these staff members then retaliate against her. As an example, she stated that Mattusch gave free fish to Glenn Lazof (former District employee) who then sent an email in May 2015 that upset Brennan (which is described in Section 7). Brennan provided me with a report she wrote in October 2015 regarding certain IT purchases although there is nothing in this report that alleges Mattusch engaged in any wrongdoing.

12. Brennan's Other Allegations of Retaliatory Actions Occurring after her October 2017 Complaint

On December 5, 2017, Brennan informed McGrath that she felt retaliated against because one of the judges for the holiday boat lighting contest was biased against her. Mattusch told me that he was not aware of who the judges were for this event.



Brennan provided me with information relative to a police report she filed in December 2017 against Jason Craven, who may reside in the Half Moon Bay area. The information she provided included sexually explicit photographs purportedly posted or otherwise transmitted to her by Craven.

On December 8, Brennan emailed me, stating that she had reason to believe that Craven is a friend of Mattusch and that she was concerned that Craven's sexual harassment might be further retaliation against her for reporting Mattusch.

I showed Mattusch a photograph of Craven (from the documents Brennan provided). Mattusch stated that he did not know or recognize him, and said that he has not seen him at any Board meetings.

Brennan stated that unspecified people have told her that they have heard negative things said about her by Mattusch's friends. She told me that Mattusch will use others for his "dirty work."

13. Mattusch's Allegations Regarding Brennan

Mattusch alleges that Brennan's complaint against him is political retribution, triggered by their professional disagreements and by Mattusch's comment at the October 18 Board meeting that referenced Brennan not reading her Board packet. Mattusch stated that Brennan has told him that the truth does not matter; the only thing that matters is what is in writing. He said that she has told him that she has written things in published articles which are not true but the public believes it, for example, that Oyster Point is a Super Fund site but it is not.

Mattusch provided examples of Brennan raising complaints about others that Mattusch has characterized as personal attacks against those who express disagreement with her views and that demonstrate bullying behavior by Brennan. It is beyond the scope of this investigation to re-examine these various historical complaints. To the extent that Mattusch is alleging that Brennan has engaged in improper behavior towards him, I have not been requested to investigate such allegations.

Fact-Finding Conclusions

The following findings were reached based on a review of information gathered in the investigation and an assessment of whether sufficient evidence existed to render the alleged events or circumstances at issue more likely than not to have occurred or existed. Where



relevant, the investigation also examined whether sufficient evidence existed to support any contrary positions advanced by other witnesses in the investigation.

As a neutral fact-finder, I am not rendering legal opinions or providing legal advice as to whether the elements of sexual harassment or retaliation under California or federal law are present, or whether any violations of District policies occurred.

1. Brennan's Allegations of Sexual Harassment

The investigation revealed that more likely than not Mattusch did not engage in severe and pervasive sexually offensive conduct towards Brennan in her capacity as Commissioner or during his tenure as Commissioner. As such, Brennan's allegations regarding sexual harassment are more likely than not unfounded. This conclusion is based on the following.

It is undisputed that Mattusch invited Brennan to join him on a safari trip in or around May 2014. I find that Brennan's email to Mattusch about the trip does not indicate that she was offended by the invitation nor does it suggest that she interpreted the invitation as a sexual overture. I note that Brennan did not tell Mattusch at the time that she was offended or that he had crossed the line. I find it significant that Brennan continued to work on or otherwise support Mattusch's campaign for the next six months. It does not appear that she was under any obligation to do so.

It is undisputed that Mattusch sent an email in June 2014 to Brennan and over 40 other individuals that contained photographs of nude women. I find these photographs to be sexually graphic and objectively offensive and that Brennan was subjectively offended by them. However, I note that Brennan was not so offended by the email that she stopped supporting Mattusch's campaign, but rather, she continued to campaign for him when he was on his safari trip that lasted several weeks. I find it significant that Mattusch has never sent Brennan any similar emails and that Brennan herself emailed McGrath on October 25, 2017 that the harassment stopped after she confronted Mattusch.

I note that these two isolated events occurred in 2014 before Mattusch was elected as a Commissioner and thus, he was a member of the public at the time and not covered by the District's policy. Moreover, these incidents did not occur at District meetings or events or while Brennan was conducting District business.

With respect to behaviors that allegedly occurred after January 2015 when Mattusch became a Commissioner, I note that Brennan described that her dinner conversation with Mattusch in May 2015 was the most egregious and thereafter, she successfully avoided him in



social settings. Although Brennan described in detail being upset about something else that had occurred that day, she did not describe specifically what Mattusch said to her. Her description of similar one-on-one conversations with Mattusch in which he wanted to talk about sex were also not detailed. Moreover, if Mattusch had said something that offended her, it is unclear why she waited until I interviewed her in November 2017 to say anything about it, given that she previously raised various complaints about various District employees and was aware of the complaint reporting process. I find that more likely than not Mattusch and Brennan talked about something that made Brennan upset at the dinner in May 2015 although on balance, I find Mattusch's denial of talking to Brennan about sex to be more credible.

I find that Brennan disliked the way that Mattusch hugged her, although she was very vague about how frequently or recent this occurred. Since she said that she successfully avoided Mattusch after May 2015, it appears that incidents in which Mattusch hugged Brennan have not occurred in at least the last year. I note that Brennan did not ever tell Mattusch that his hugs were offensive nor did she report it until my interview in November 2017.

I find that Mattusch did not send flowers to Brennan in May 2015 as a romantic or sexual overture. Brennan did not allege that she interpreted it this way, and if his card expressed some romantic or sexual interest, it is reasonable to assume that Brennan would remember that regardless of whether she can locate the card. I do not find that anything inappropriate occurred when Mattusch and Brennan sat in his truck on one occasion.

I do not find the photo of Mattusch with a group of District employees to be relevant to Brennan's allegations. Although Brennan initially alleged that Mattusch touched the woman in the photo and pulled her close, she acknowledged that she did not take the photo, did not attend the event, and had no idea how the woman in the photo felt.

2. Brennan's Allegations of Retaliation

The investigation revealed that more likely than not Mattusch did not engage in retaliatory conduct towards Brennan as a result of her rejection of his alleged sexual advances or as a result of her complaint of sexual harassment against Mattusch in October 2017. As such, Brennan's allegations of retaliation are more likely than not unfounded. This conclusion is based on the following.

Brennan alleges that Mattusch retaliated against her by removing her from two committees. I find that Mattusch's appointment of Brennan to the OPM Committee in 2016 does not support her allegation that he retaliated against her a year later by removing her from the committee.



I find that Mattusch's removal of Brennan from the OPM Committee in January 2017 and the Finance Committee in August 2017 occurred more than two years after Mattusch invited Brennan on the safari trip and sent her the email with the nude photos.

I note that Brennan stated that Mattusch began retaliating against her after he became President in 2015 and gradually got worse over time. However, I find that Brennan and Mattusch did not continue to discuss the 2014 events and Brennan has not alleged that Mattusch made any sexual advances after he was elected in 2015. Thus, I find a lack of connection between the two incidents in 2014 and Mattusch's removal of Brennan from two committee assignments. Moreover, I find that Mattusch's rationale for removing Brennan from the Finance Committee was based on her behavior at the August Joint Liaison Committee meeting, not based on his interactions with Brennan in 2014 and 2015 (which she alleges were harassing).

I find that Mattusch has not interfered with Brennan's agenda items, which are governed by Resolution 19-13. Rather, at the October and November 2017 Board meetings, he made an exception to Resolution 19-13 by allowing Brennan's agenda items that were not heard to be carried over to the following meeting. This prompted McGrath to request clarification of the policy, the Board deliberated at the November meeting and a vote was taken. Although it was voted on after Brennan's complaint to McGrath on October 24, 2017, it was originally on the agenda prior to her complaint.

Brennan did not provide any explanation or basis for her allegation that McGrath has acted as surrogate for Mattusch. Brennan did not identify any specific agenda items of hers that were removed nor did she provide any basis for alleging that Mattusch directed McGrath to substitute his name for other Commissioner names as a way of getting around the policy. I find that McGrath placed the Pillar Point RV lot on the agenda with a valid reason for doing so.

Based on my review of the Board meeting video from August and October 2017, I do not find that Mattusch's comments were disrespectful or threatening towards Brennan. His comments in both instances were based on recent events and I do not find that they were motivated by his interactions with Brennan in 2014 and 2015 (which she alleges were harassing).

With respect to the January 2018 Board meeting, I find that Brennan and Mattusch both engaged in name-calling and disrespectful behavior towards each other.

I do not find Brennan's allegation credible that Craven's behavior towards her was connected to Mattusch. She provided no explanation as to why she said she had reason to believe that Mattusch and Craven were friends, much less the basis for her concern that Mattusch



had prompted the outrageous behavior of Craven. To the extent that Brennan has alleged that Mattusch has motivated other individuals to carry out retaliation against her on Mattusch's behalf, she has provided no factual basis. The adverse actions she has identified as being retaliatory are fully addressed above.

If you have any questions, please feel free to contact me.

Very truly yours,

Mary L. Topliff

Encl. (Exhibits 1-6)



Exhibits to
Fact-Finding Investigation Report
San Mateo County Harbor District

Exhibit 1

San Mateo County Harbor District

Policy	Number: 6.2.5	Approved Date: 01/18/2006	Effective Date:
Title: Harassment and Retaliation	Prepared By: E. Wilkerson	Approved By: Resolution 07-06	Page: Page 1 of 6
Purpose: To reaffirm the District's strong commitment to prohibit Harassment as defined below and Retaliation against those who report or oppose harassment.			

Statement of Purpose

This policy applies to and protects applicants for District employment, District officers and employees. This policy:

- A. States and defines the District's Policy against harassment and retaliation.
- B. Sets forth the procedure to be used to report, investigate, and remedy potential violations.

Policy

1. **Prohibition Against Harassment:** It is the policy of the District to prohibit any form of harassment, as defined below. To that end, this Policy establishes a Complaint Procedure that applicants, elected representatives, officers, employees or contractors can use to report potential violations. Disciplinary action, up to and including termination, will be taken against an employee or officer who is found to have engaged in harassment in violation of this Policy. Any elected representative, or contractor who has been found to have engaged in harassment in violation of this Policy shall be subject to appropriate sanctions.
2. **Prohibition Against Retaliation:** In order to deter harassment and to support the integrity of the Complaint Procedure described below, the District also prohibits retaliation. Any employee found to have retaliated against an applicant, elected representative, officer, employee, or contractor because of a complaint of harassment or because of participation in the Complaint Procedure, shall be subject to disciplinary action up to and including termination. Any elected representative, or contractor who has been found to have retaliated in violation of this Policy shall be subject to appropriate sanctions, including, but not limited to, restriction of service and monetary penalties.
3. **Definitions**
 - A. **Protected Classifications:** This Policy prohibits harassment because of an individual's protected classification. "Protected classification" includes sex, gender, race, religious creed, color, national origin or ancestry, medical condition, marital status, age, or perceived or actual sexual orientation, physical or mental disability. "Sexual orientation" includes heterosexuality, homosexuality, transgender and bisexuality.
 - B. **Policy Coverage:** This Policy prohibits District elected representatives, officers, employees, or contractors from harassing applicants, elected representatives, officers, employees, or contractors because:
 1. Of an individual's protected classification

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Title: Harassment and Retaliation	Prepared By: E. Wilkerson	Approved By: Resolution 07-06	Page: Page 2 of 6

2. Of the perception that an individual has a protected classification, or
 3. The individual associates with a person who has or is perceived to have a protected classification.
4. **Harassment**: Depending upon the circumstances, a single act of harassment, as defined below, can violate this Policy:
- A. **Verbal Harassment**—includes epithets, jokes, comments or slurs that identify a person on the basis of his or her protected classification, intimate or other nicknames, comments on appearance—including dress or physical features—or stories that tend to disparage those with a protected classification.
 - B. **Visual Forms of Harassment**—includes gestures, posters, notices, bulletins, cartoons, photography, or drawings that end to disparage those with a protected classification.
 - C. **Physical Harassment**—includes the following conduct taken because of an individual’s protected classification: assault, impeding or blocking movement, physically interfering with normal work or movement, pinching, grabbing, patting, propositioning, leering, making express or implied job threats or promises in return for submission of physical acts, mimicking, stalking, or taunting.
 - D. **Sexual Harassment**—includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that are an express or implied condition of continued employment or other term and condition of employment.
5. **Guidelines for Identifying Harassment**: To help clarify what constitutes harassment in violation of this Policy, use the following guidelines:
- A. Harassment includes any conduct that would be “unwelcome” to an individual of the recipient’s same protected classification and which is taken because of the recipient’s protected classification.
 - B. It is no defense that the recipient appears to have voluntarily “consented” to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.
 - C. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.
 - D. Even visual, verbal, and/or physical conduct between two employees who appear to welcome it can constitute harassment of a third applicant, elected representative, officer, employee or contractor who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.

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- E. Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. The District recognizes that it is legitimate for those in protected classifications to have heightened sensitivities to harassment as a result of their life experiences. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).
- F. A single act can violate this Policy and provides grounds for discipline or other appropriate sanctions. Therefore, if you are in doubt as to whether any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor.

6. **Retaliation:** Any adverse conduct taken because an applicant, elected representative, officer, employee or contractor has reported harassment, or has participated in the Complaint Procedure described below, is prohibited. "Adverse Conduct" includes: taking sides because an individual has reported harassment, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment, or real or implied threats of intimidation to prevent an individual from reporting harassment. The following individuals are protected from retaliation: those who make good faith reports that harassment occurred, those who are accused of harassment, and those who associate with an individual who is involved in reporting harassment or participating in a harassment complaint procedure.

7. **Confidentiality:**

- A. The District recognizes that confidentiality is important to all parties involved in a harassment investigation. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible.
- B. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor. Any individual who discusses the content of an investigatory interview will be subject to discipline.
- C. The District will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or a court order.

8. **Complaint Procedure:**

An applicant, elected representative, officer, employee, or contractor who feels he or she has been harassed or retaliated against in violation of this Policy should report the conduct immediately and according to the following procedure so that the complaint can be resolved quickly and fairly.

Policy	Number: 6.2.5	Approved Date:	Effective Date:
Title: Harassment and Retaliation	Prepared By: E. Wilkerson	Approved By: Resolution 07-06	Page: Page 4 of 6

- A. **Reporting to the Offending Individual:** The District strongly encourages any individual who feels that he or she has been harassed in violation of this Policy to let the offending person know immediately and firmly that the conduct at issue is unwelcome, offensive, in poor taste, and/or inappropriate and must stop.
- B. **Reporting to Management:** If an individual who has been harassed prefers not to confront the offending person, he or she need not do so. Instead, the District strongly encourages that individual to immediately report the conduct to any supervisor, department head, Human Resource Manager or the General Manager. The individual should provide all details of the incident or incidents, names of individuals involved, and the names of any witnesses. This report can be made orally or in writing.
- C. **Interim Relief:** Any elected official, officer, supervisor or management employee who receives a complaint or learns of a potential violation of this Policy must promptly report the information to the appropriate person in the chain of command, and if necessary, take action to diffuse volatile circumstances. The chain of command is 1) direct supervisor; 2) Human Resource Manager; or 3) the General Manager. Elected representatives who receive a complaint or learn of a potential violation of this Policy must promptly report the information to the General Manager.
- D. **Investigation:** The General Manager or his or her designee will immediately either direct an investigation or undertake an effective, discrete, thorough and objective investigation of the allegations at issue. All complaints will be investigated to the extent that the General Manager deems appropriate. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator will remind all witnesses to maintain the confidentiality of the content of the interview, and that retaliation against those who report alleged harassment or who participate in the complaint procedure is prohibited.
- E. **Investigation into Unreported Potential Violations:** The District takes an active approach to the problem of harassment and will conduct an investigation if its elected representatives, officers, supervisors or managers become aware that harassment may be occurring, regardless of whether the recipient or third party reports a potential violation.
- F. **Remedial and Disciplinary Action:** If the investigation concludes that harassment or retaliation in violation of this Policy has occurred, the District will notify the offended and offending parties of the general conclusion(s) of the investigation and will take effective remedial action that is designed to end the violation(s). Any officer, or employee determined to be responsible for violating this Policy will be subject to appropriate disciplinary action, up to and including termination. Disciplinary action may also be taken against any elected representative, officer, supervisor or manager who condones or ignores potential violations of this Policy or otherwise fails to take appropriate action to enforce this Policy. Any elected representative, or contractor found to be responsible for violating this Policy will be subject to appropriate sanctions.

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- G. **Option to Report to Outside Administrative Agencies:** Applicants, elected representatives, officers, employees, and contractors have the option to report harassment or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These governmental agencies offer legal remedies and a complaint process. The nearest DFEH and EEOC offices are listed in the government section of the telephone book or employees can check the equal employment opportunity posters that are located on District bulletin boards for office locations and telephone numbers.

9. **Individual Responsibilities:**

- A. **Individual Employee/Contractor:** A District employee or contractor is required to:
1. Conduct him or herself consistently with the anti-harassment and anti-retaliation policy described here.
 2. Report any act he or she believes in good faith constitutes harassment as defined here to his or her immediate supervisor, department head, Human Resource Manager or General Manager.
 3. Maintain the confidentiality of any investigation the District conducts under this Policy by not disclosing the substance of any investigatory interview, except as directed by the immediate supervisor, department head, Human Resource Manager, or General Manager.
 4. Cooperate fully with the District's investigation into alleged violations of this Policy by responding fully and truthfully to all questions posed during the investigation.
- B. **Management and Supervisory Employees, including Elected Representatives (Board Members):** In addition to the responsibilities listed above for individual employees, management and supervisory personnel, including elected representatives (Board Members), are responsible to help prevent harassment in their departments or areas of responsibility by:
1. Being familiar with this Policy and modeling behavior that is consistent with it.
 2. Informing all employees under their direction of this Policy and Complaint Procedure and providing training as appropriate.
 3. Receiving complaints of harassment in a fair and serious manner.
 4. Reporting the complaint to the appropriate person in the chain of command as designated in section 4.C.

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5. If a member in the chain of command as designated in section 4.C, documenting steps taken to resolve the problem, and following up with the complaining applicant, elected representative, officer, employee or contractor to ensure that the behavior has stopped and that there have been no reprisals.
 - a) Based on the findings of the investigation, implementing appropriate disciplinary and remedial action.
 - b) Informing one who complains of harassment of his or her option to contact the EEOC and DFEH regarding any alleged harassment or retaliation.
 - c) Regularly monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures and correcting inappropriate language.

C. **General Manager:**

The General Manager is responsible for administering the complaint procedure, authorizing and/or conducting an investigation.

Note: Questions and/or clarification of this Policy should be directed to the General Manager.



Law Offices of Mary L. Topliff

Employment Law Counseling
Compliance, Training, Investigations

Exhibits to
Fact-Finding Investigation Report
San Mateo County Harbor District

Exhibit 2

San Mateo County Harbor District

Policy	Number: 6.2.5	Approved Date(s): 01/18/2006 Substantial Revision: August 3, 2016	Effective Date:
Title: Harassment, Discrimination and Retaliation Prevention	Prepared By: G. Lazof	Approved By: Resolution 07-06; Resolution 24-16	Page: Page 1 of 9
Purpose: The District has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. The purpose of this Policy is to: establish a strong commitment to prohibit and prevent discrimination, harassment, and retaliation in employment; to define those terms; and to set forth and establish a procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation.			

I. POLICY

The District has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions,

Harassment or discrimination against an applicant, intern, volunteer, Harbor Commissioner, officer, contractor, or employee by a supervisor, management employee, Harbor Commissioner, officer, co-worker, member of the public, or contractor on the basis of race, religion, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other protected classification as defined below, will not be tolerated.

This Policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

Disciplinary action or other appropriate sanction up to and including termination (in the case of an employee or contractor) will be instituted for prohibited conduct as defined below.

Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination (in the case of an employee or contractor).

The District encourages all covered individuals to report—as soon as possible—any conduct that they believe violates this Policy. Any retaliation against an employee because he or she filed or supported a complaint or because he or she participated in the complaint resolution process is

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prohibited. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

The District will implement the complaint procedures as set forth below.

II. DEFINITIONS

- A. **Protected Classification:** This Policy prohibits harassment or discrimination because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), sexual orientation (including heterosexuality, homosexuality, and bisexuality), national origin, ancestry, citizenship status, marital status, age (over 40), medical condition, genetic information, physical or mental disability, military or veteran status, or any other protected classification protected by law. (Gov. Code § 12940(a).)
- B. **Policy Coverage:** This Policy prohibits the District, Harbor Commissioners, officers, employees (regardless of rank or title), interns, volunteers or contractors from harassing or discriminating against applicants, officers, Harbor Commissioners, employees, interns, volunteers, or contractors because of: 1) an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.
- C. **Protected Activity:** This Policy prohibits discrimination, harassment or retaliation because of an individual's protected activity. Protected activity includes: making a request for or receiving an accommodation for a disability; making a request for or receiving accommodation for religious beliefs or practices; making or supporting a complaint under this Policy; opposing violations of this Policy; or participating in an investigation pursuant to this Policy.
- D. **Discrimination:** This Policy prohibits treating individuals differently because of the individual's protected classification, actual or perceived; because the individual associates with a person who is member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy. (Gov. Code, § 12926(o).)
- E. **Harassment** may include, but is not limited to, the following types of behavior that is taken because of a covered individual's actual or perceived protected classification.

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Note that harassment is not limited to conduct that the District's employees take. Under certain circumstances, harassment can also include conduct taken by those who are not employees, such as Harbor Commissioners, persons providing services under contracts, or even members of the public:

1. Speech, such as epithets, derogatory comments or slurs, and proposition on the basis of a protected classification. This might include inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.
 2. Physical acts, such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.
 3. Visual acts, such as derogatory posters, cartoons, e-mails, pictures or drawings related to a protected classification.
 4. Sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment. (Gov. Code, §12940(j); 2 Cal.Code Regs. § 11091(b)(1).)
- F. Guidelines for Identifying Harassment: Harassment includes any conduct that would be unwelcome or unwanted to an individual of the recipient's same protected classification. The following guidelines to determine if conduct is unwelcome or unwanted should be followed:
1. It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.
 2. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.

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3. Even visual, verbal, or physical conduct between two employees who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
4. Conduct can constitute harassment even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over attention, endearing nicknames, hugs).

G. Retaliation: Retaliation occurs when adverse conduct is taken against a covered individual because of the individual's protected activity as defined in this Policy.

H. "Adverse conduct" may include but is not limited to: disciplinary action; counseling; taking sides because an individual has reported harassment or discrimination; spreading rumors about a complainant or about someone who supports or assists the complaint; shunning and avoiding an individual who reports harassment or discrimination; or making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

III. COMPLAINT PROCEDURE

- A. A covered individual who believes he or she has been subjected to harassment, discrimination, or retaliation may make a verbal or written complaint with any of the following, with no need to follow the chain of command:
1. Immediate supervisor;
 2. Any supervisory or management employee within or outside of the department;
 3. Director of Administrative Services;
 4. Other Manager (e.g., Director of Operations);
 5. General Manager;
 6. District's General Counsel (in a complaint by or against the General Manager or a Harbor Commissioner);
 7. District's Board of Harbor Commissioners (in a complaint against the General Manager or a Harbor Commissioner)

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- B. Any supervisory or management employee who receives a complaint concerning alleged violations of this Policy (known collectively herein as a “harassment complaint”) should immediately notify the Director of Administrative Services or the General Manager, or with respect to a complaint involving a Harbor Commissioner or General Manager, the District’s General Counsel.
- C. Upon receiving notification of a harassment complaint, the Director of Administrative Services or General Manager (or designee) shall complete and/or delegate the following steps. If the Director of Administrative Services is an accused, the General Manager will complete and/or delegate the following steps; if the General Manager or a Commissioner is an accused, the District Counsel (or designee) shall complete and/or delegate the following steps:
1. Provide the complainant a timely response indicating that the complaint has been received and that a fair, timely and thorough investigation will be conducted.
 2. Timely authorize and supervise a fair and thorough investigation of the complaint by impartial and qualified personnel and/or investigate the complaint. The investigation will afford all parties with appropriate due process and include interviews with: a) the complainant; b) the accused; and c) other persons who have relevant knowledge concerning the allegations in the complaint.
 3. Review the factual information gathered through the investigation to reach a reasonable conclusion as to whether the alleged conduct constitutes harassment, discrimination, or retaliation under the policy given consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
 4. Timely report a summary of the determination as to whether this Policy has been violated to appropriate persons, including the complainant and the accused. If discipline or sanctions are imposed, the level of discipline or sanction will not be communicated to the complainant.
 5. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.

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6. Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.
7. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.

D. The District takes a proactive approach to potential violations of this Policy and will conduct an investigation if its Commissioners, officers, supervisors, or managers become aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

Option to Report to Outside Administrative Agencies: An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are generally listed on the Internet, in the government section of the telephone book, or employees can check the posters that are located in District offices for office locations and telephone numbers.

IV. CONFIDENTIALITY

Every effort will be made to ensure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative. The District will not disclose a completed investigation report except as it deems necessary to support a disciplinary action or sanctions, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

V. RESPONSIBILITIES:

- A. Each non-manager or non-supervisor, Harbor Commissioner, and contractor, is responsible for:
 1. Treating all individuals in the workplace or on worksites with respect and consideration.
 2. Modeling behavior that conforms to this Policy.

Policy	Number: 6.2.5	Approved Date(s): 01/18/2006 Substantial Revision: August 3, 2016	Effective Date:
Title: Harassment, Discrimination and Retaliation Prevention	Prepared By: G. Lazof	Approved By: Resolution 07-06; Resolution 24-16	Page: Page 7 of 9

3. Participating in periodic training.
 4. Cooperating with the District's investigations by responding fully and truthfully to all questions posed during the investigation.
 5. Taking no actions to influence any potential witness while the investigation is ongoing.
 6. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor or department head, or to the Director of Administrative Services or another manager, or to the General Manager, or to the General Counsel (for complaints against the General Manager or a Harbor Commissioner).
- B. In addition to the responsibilities listed above, each manager and supervisor is responsible for:
1. Informing employees of this Policy.
 2. Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
 3. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
 4. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
 5. Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
 6. Assisting, advising, or consulting with employees and the Director of Administrative Services or General Manager regarding this Policy.
 7. Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.
 8. Implementing appropriate disciplinary and remedial actions.

Policy	Number: 6.2.5	Approved Date(s): 01/18/2006 Substantial Revision: August 3, 2016	Effective Date:
Title: Harassment, Discrimination and Retaliation Prevention	Prepared By: G. Lazof	Approved By: Resolution 07-06; Resolution 24-16	Page: Page 8 of 9

9. Reporting potential violations of this Policy of which he or she becomes aware to the Director of Administrative Services, another manager, the General Manager or the General Counsel (for complaints against the General Manager or a Harbor Commissioner), regardless of whether a complaint has been submitted.
10. Participating in periodic training and scheduling employees for training.

VI. DISSEMINATION OF POLICY

All employees and Harbor Commissioners shall receive a copy of this Policy when they are hired or elected or appointed into office. The Policy may be updated from time to time and redistributed.

Policy	Number: 6.2.5	Approved Date(s): 01/18/2006 Substantial Revision: August 3, 2016	Effective Date:
Title: Harassment, Discrimination and Retaliation Prevention	Prepared By: G. Lazof	Approved By: Resolution 07-06; Resolution 24-16	Page: Page 9 of 9

EMPLOYEE and HARBOR COMMISSIONER ACKNOWLEDGEMENT

I hereby acknowledge that I have received a copy of the San Mateo County Harbor District's Harassment, Discrimination and Retaliation Prevention Policy, that I am responsible for reading and understanding this Policy, and that I will comply with its requirements.

Print Name: _____

Signature: _____

Date: _____

In the case of an employee, the signed form will be placed in the employee's personnel file. In the case of a Harbor Commissioner, the signed form will be kept in the Commissioner's personal District file.



Exhibits to
Fact-Finding Investigation Report
San Mateo County Harbor District

Exhibit 3

-----Original Message-----

From: Sabrina Brennan [<mailto:sabrina@dfm.com>]

Sent: Wednesday, October 25, 2017 11:44 AM

To: Steve McGrath <smcgrath@smharbor.com>

Cc: Sabrina Brennan <sbrennan@smharbor.com>; Edmundo Larenas <ELarenas@smharbor.com>

Subject: Sexual Harassment & Retaliation

Hello Steve,

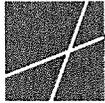
I wanted to follow up on our Oct 24, 2017 1:00pm meeting.

The sexual harassment I reported stopped after I confronted Tom Mattusch about it but the retaliation continues.

The Harbor District has a responsibility to protect board members and employees from retaliation.

Sabrina

<6_2_5 Harassment and Retaliation.pdf>



Exhibits to
Fact-Finding Investigation Report
San Mateo County Harbor District

Exhibit 4

Mary Topliff

From: Sabrina Brennan <sabrina@dfm.com>
Sent: Tuesday, November 28, 2017 12:25 PM
To: Mary Topliff
Subject: Fwd: Tanzania

Begin forwarded message:

From: "Tom Mattusch" <tommattusch@comcast.net>
Subject: RE: Tanzania
Date: May 21, 2014 at 6:06:14 AM PDT
To: "sabrina brennan" <sabrina@dfm.com>

9/15-10/12

Tom Mattusch
Huli Cat
650 726 2926

-----Original Message-----

From: sabrina brennan [<mailto:sabrina@dfm.com>]
Sent: Tuesday, May 20, 2014 10:24 PM
To: Tom & Lisa Mattusch
Subject: Tanzania

Hello Tom,

I'm catching up on v/m.

The trip sounds great but what about the election... What date do you leave and how long is the trip?

My sister lived in Senegal for a while.

Sabrina



Exhibits to
Fact-Finding Investigation Report
San Mateo County Harbor District

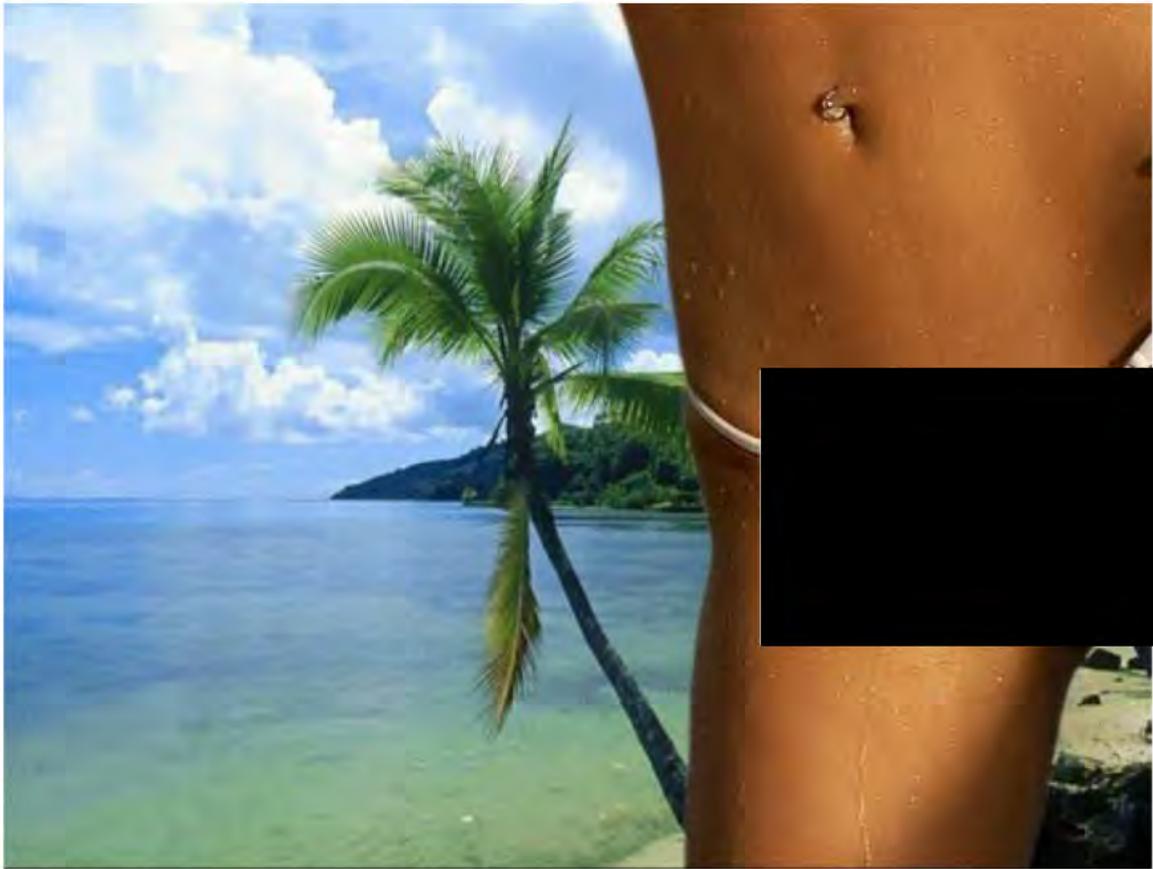
Exhibit 5

From: Sabrina Brennan
To: [Mary Topliff](#)
Subject: Fwd: My last vacation photos
Date: Tuesday, November 28, 2017 12:25:41 PM

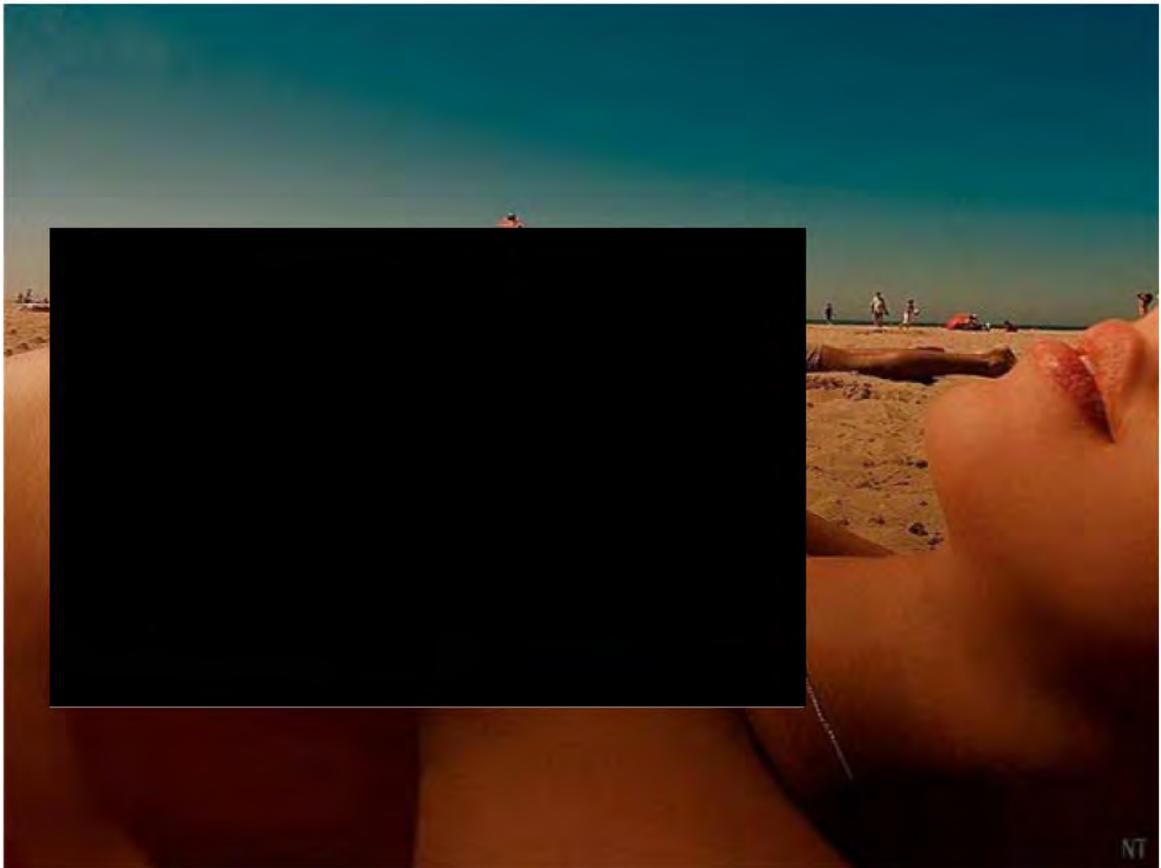
Begin forwarded message:

From: "Tom Mattusch" <tommattusch@comcast.net>
Subject: My last vacation photos
Date: June 12, 2014 at 9:39:15 AM PDT
To: "Tom Mattusch" <tommattusch@comcast.net>

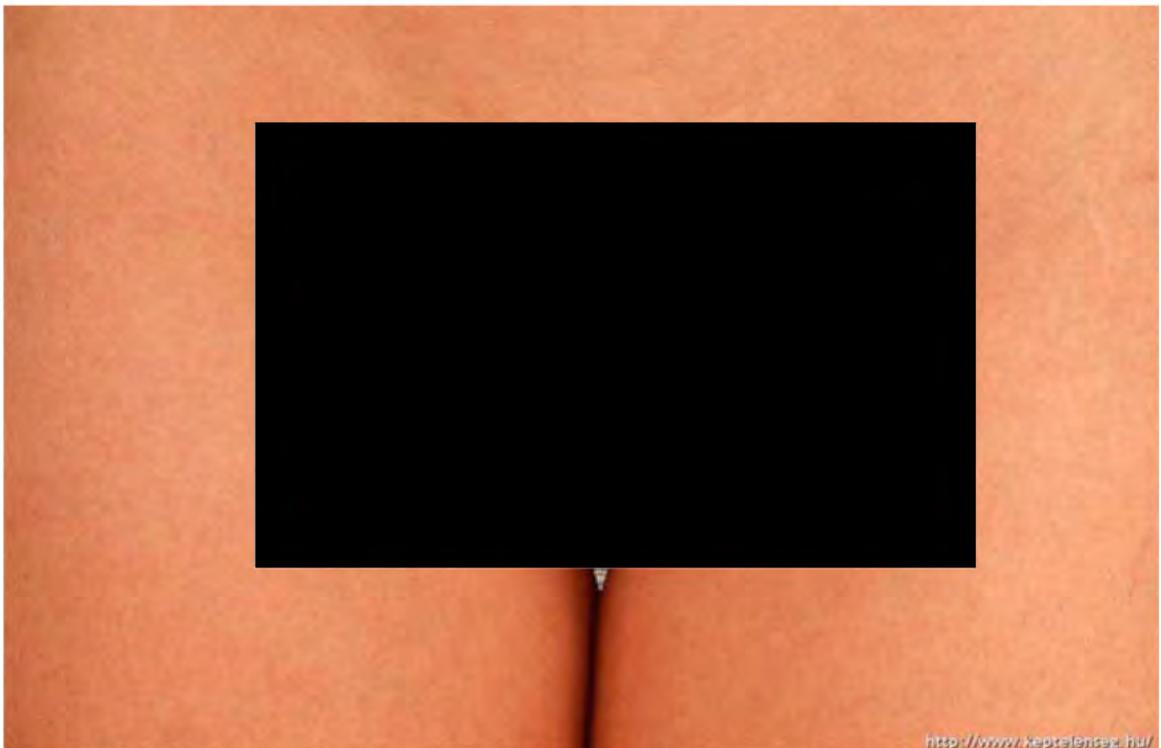
View of the coastline



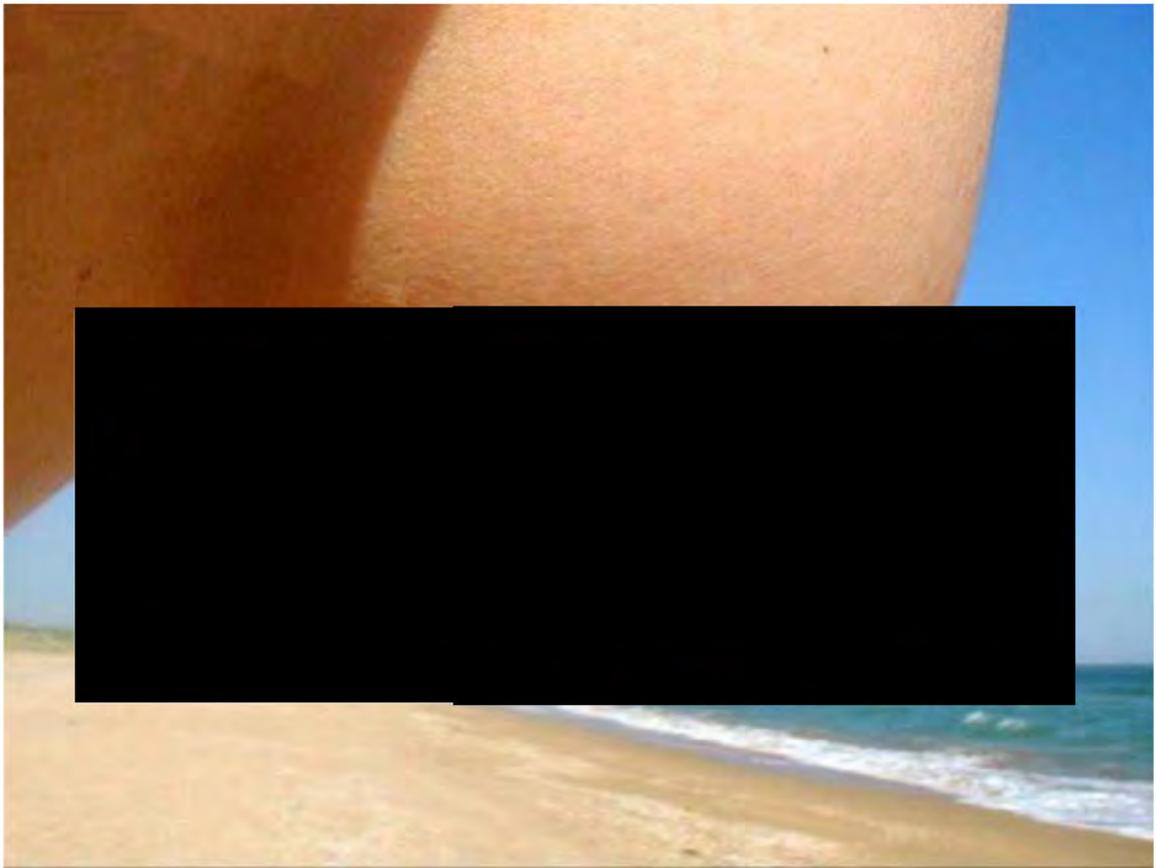
Elevated seagull feeding station



Palm blowing in the wind



Deserted beach



Soft powdery sand



Calm cool waters



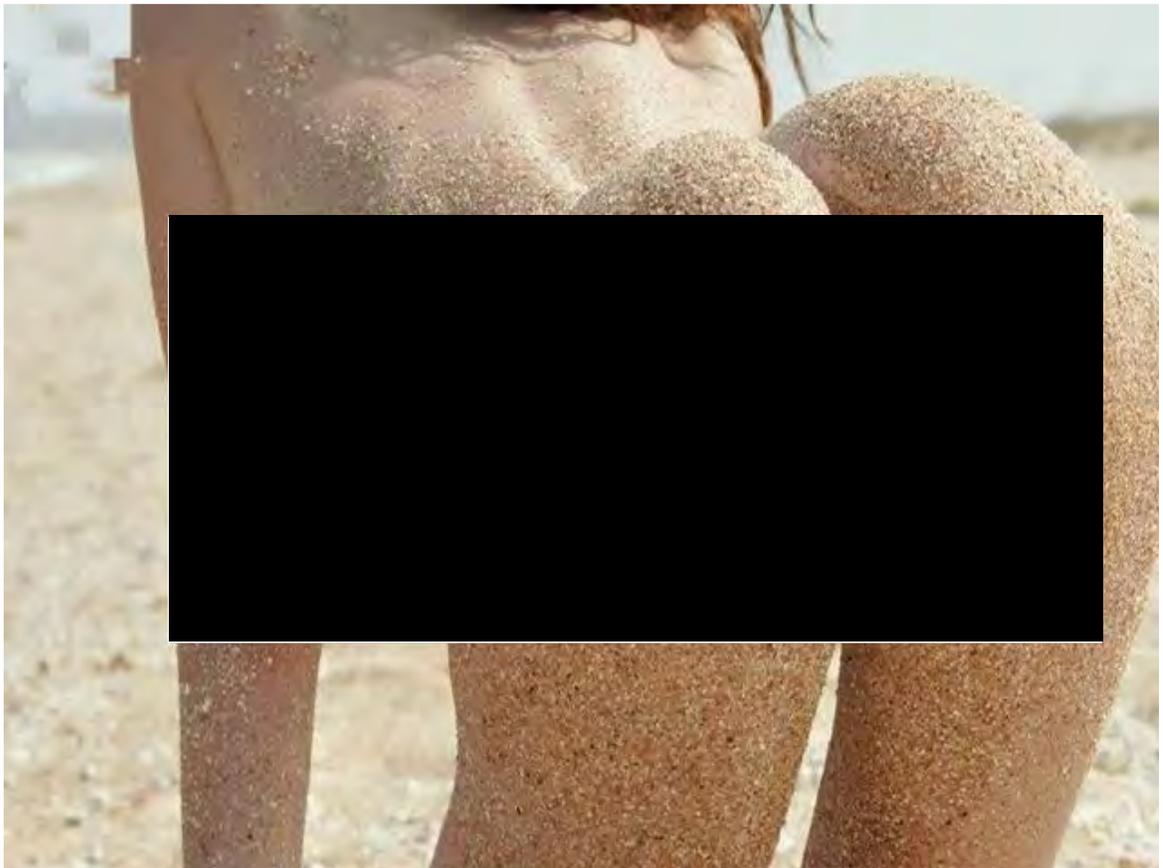
Azure blue water



Castle on hill top



Course tan sand





Exhibits to
Fact-Finding Investigation Report
San Mateo County Harbor District

Exhibit 6

From: Sabrina Brennan
To: [Mary Topliff](#)
Cc: [Andrew Giacomini](#); [Steven D. Miller](#); [Edmundo Larenas](#); [Angela M. Clements](#); [Emily M. Charley](#); [Adam W. Hofmann](#); sbrennan@smharbor.com; [DEM](#)
Subject: Re: Following up
Date: Monday, January 15, 2018 5:58:15 PM
Attachments: [Screen Shot 2018-01-15 at 4:20:08 PM.png](#)
[Screen Shot 2018-01-15 at 5:16:27 PM.png](#)

Hello Mary,

I'm responding to your email below

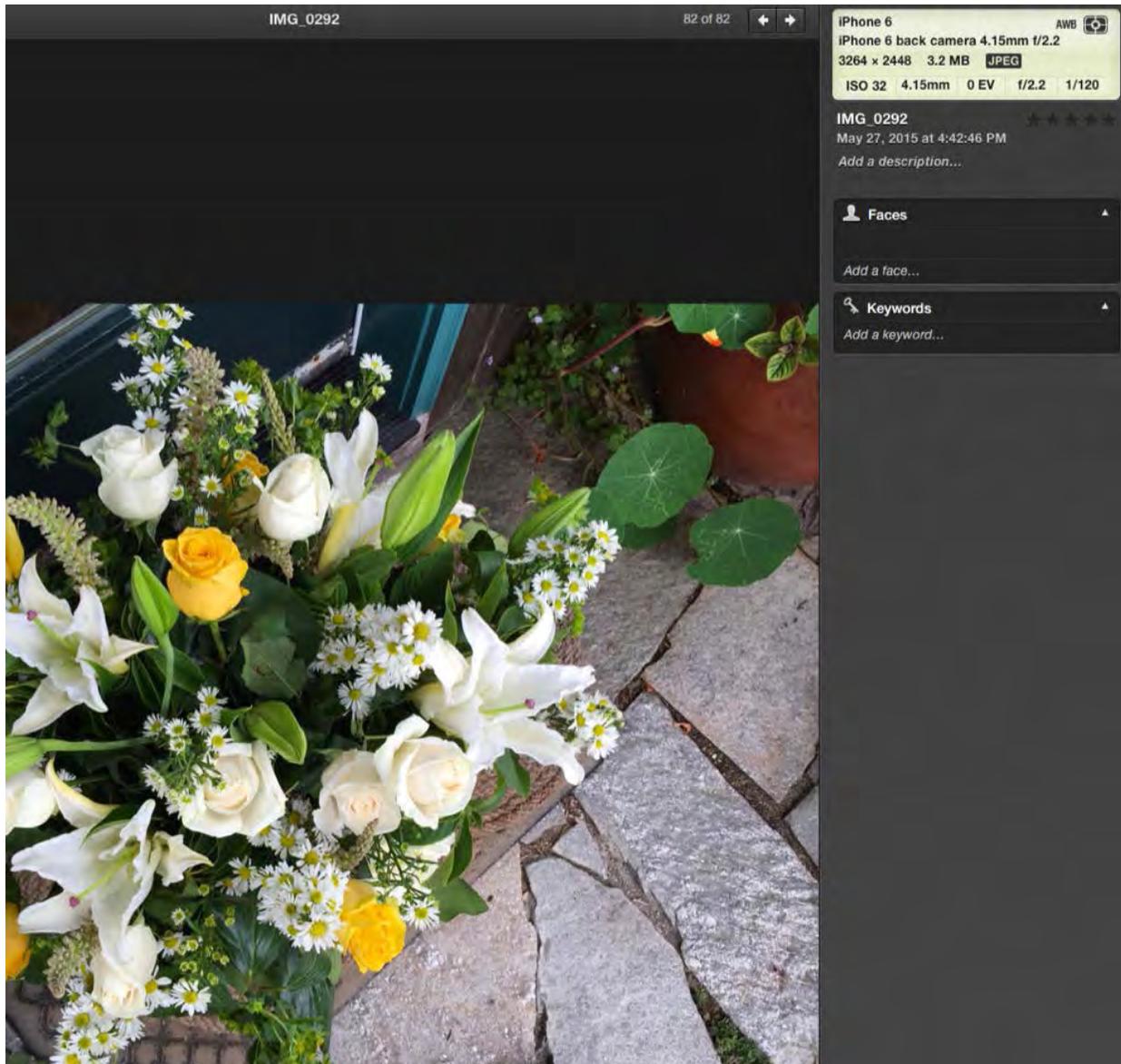
I've been working two jobs for the past three months and I just had time this weekend to start looking for photos

Please see the attached bouquet of roses screenshot for the date and time of the photo The flowers were from a florist with a card from Tom Mattusch
These are the same flowers I told you about during the interview

I also found the attached photo of President Mattusch putting his arm around a former Harbor District employee President Mattusch touched a staff member during a 2015 group photo and pulled her close When I look at this photo it reminds me of other inappropriate touching by President Mattusch I'm traumatized by President Mattusch's creepy long bear hugs and inappropriate touching I'm traumatized by President Mattusch's inappropriate, harassing, and retaliatory behavior toward me and others

These photos remind me of additional excruciating sexual harassment and vindictive behavior that I would like to add to my sexual harassment and retaliation complaint against Tom Mattusch.

Sabrina Brennan





Tom Mattusch
Christmas 2015 Oyste...
JPEG - 63 KB
Created 12/5/15, 8:38 PM
Modified 12/5/15, 8:38 PM
Last opened 1/15/18, 5:15 PM
Dimensions 960 x 540

On Jan 15, 2018, at 4:16 PM, Mary Topliff <Topliff@joblaw.com> wrote:

Dear Sabrina. Could you confirm when the photo of the flowers was taken? If there was a card, did you take a photo of it and if so, please provide. In your interview, you said that you received flowers from Tom sometime in 2015. Are these the same flowers or a different bouquet?

Thank you.
Mary

Mary L. Topliff, Esq.
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Employment Law Counseling
Compliance, Training, Investigations

Confidentiality Notice

The information in this email, along with any attachments, is confidential and may be legally privileged. It is intended solely for the addressee. Access to this email by anyone else is strictly unauthorized. If you received this message in error, please delete this message and/or contact me.

From: Sabrina Brennan [<mailto:sabrina@dfm.com>]
Sent: Monday, January 15, 2018 12:46 PM
To: Mary Topliff <Topliff@joblaw.com>; Steven D. Miller <smiller@hansonbridgett.com>
Cc: Andrew Giacomini <agiacomini@hansonbridgett.com>; Edmundo Larenas <ELarenas@smharbor.com>; Angela M. Clements <AClements@hansonbridgett.com>; Emily M. Charley <ECharley@hansonbridgett.com>; Adam W. Hofmann <AHofmann@HansonBridgett.com>

sbrennan@smharbor.com; DFM <sabrina@dfm.com>

Subject: Re: Following up

Hello Mary and Steven,

I found the attached photo of a dozen roses. Tom Mattusch sent me the flowers. I felt sick to my stomach when I saw the vase on my doorstep. I showed my wife Aimee the flowers when she got home and threw them out.

The photo reminded me of additional excruciating sexual harassment and vindictive behavior that I would like to add to my sexual harassment and retaliation complaint against Tom Mattusch. President Mattusch has a pattern of manipulating management staff and others in exchange for free fish and boat trips.

Please be sure to include this email chain unredacted with Item 11, "Commissioner Brennan Complaint Against Manager McGrath." Please publish this unredacted email chain with the Wed, Jan 17, 2018 board packet on the District's website and provide the information to the full board in advance of the board meeting this Wed. Please include the two attached photos.

Sabrina Brennan

<image001.jpg>

On Jan 15, 2018, at 11:34 AM, Sabrina Brennan <sbrennan@smharbor.com> wrote:

From: Mary Topliff <Topliff@joblaw.com>
Date: Sunday, January 14, 2018 at 4:36 PM
To: Sabrina Brennan <sbrennan@smharbor.com>
Subject: Re: Following up

Dear Sabrina. My apologies, I should have acknowledged receipt of your email from January 3.

Best,
Mary

Mary L. Topliff, Esq.
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f: 415/398-9599
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Employment Law Counseling, Training & Compliance

From: Sabrina Brennan <sbrennan@smharbor.com>
Date: Sunday, January 14, 2018 at 4:05 PM
To: "Steven D. Miller" <SMiller@hansonbridgett.com>
Cc: "agiacomini@hansonbridgett.com" <agiacomini@hansonbridgett.com>, Mary Topliff <topliff@joblaw.com>, Edmundo Larenas <ELarenas@smharbor.com>, "AHofmann@HansonBridgett.com" <AHofmann@HansonBridgett.com>, "AClements@hansonbridgett.com" <AClements@hansonbridgett.com>, "ECharley@hansonbridgett.com" <ECharley@hansonbridgett.com>, Sabrina Brennan <sbrennan@smharbor.com>
Subject: FW: Following up

Hello Steven,

Please read the email chain below related to my retaliation complaint against General Manager Steve McGrath and my retaliation and sexual harassment complaint against Harbor Commission President Tom Mattusch.

My complaints against Steve McGrath (Dec 2017) and Tom Mattusch (Oct 2017) are inherently related. Adverse conduct by both Steve McGrath and Tom Mattusch has negatively impacted my ability to do my work as a harbor commissioner.

Steve McGrath has made it clear to me on multiple occasions that he only works for President Mattusch and two other commissioners. I communicated my concerns that Mr. McGrath is acting as a proxy/surrogate for President Mattusch in the email chain below to Andrew Giacomini, managing partner at Hanson Bridgett and Mary Topliff, the attorney you hired to conduct retaliation and sexual harassment complaint interviews. **To-date I have not received a response from Andrew Giacomini or Mary Topliff to the email chain below.**

Please be sure to include this email chain unredacted with Item 11, "Commissioner Brennan Complaint Against Manager McGrath." Please publish this unredacted email chain with the Wed, Jan 17, 2018 board packet on the District's website and provide the information to the full board in advance of the board meeting this Wed.

Sabrina Brennan

From: Sabrina Brennan <sbrennan@smharbor.com>
Date: Wednesday, January 10, 2018 at 8:37 AM

To: Andrew Giacomini <agiacomini@hansonbridgett.com>
Cc: Edmundo Larenas <ELarenas@smharbor.com>, Mary Topliff <Topliff@joblaw.com>, "Emily M. Charley" <ECharley@hansonbridgett.com>, "AHofmann@HansonBridgett.com" <AHofmann@HansonBridgett.com>, "Angela M. Clements" <AClements@hansonbridgett.com>, Sabrina Brennan <sbrennan@smharbor.com>, Sabrina Brennan Personal <sabrina@dfm.com>
Subject: FW: Following up

Hello Andrew,

Since November 2017, Commissioner Larenas and I have repeatedly raised concerns about the investigation Steven Miller is conducting into my sexual harassment and retaliation complaint against Commissioner Tom Mattusch.

Please read the article published in the San Mateo Daily Journal on January 8, 2018.

Harbor District reviews complaint over explicit photos
County Harbor Commissioner alleges flawed investigation into her report of harassment
http://www.smdailyjournal.com/news/local/harbor-district-reviews-complaint-over-explicit-photos/article_e32d97bc-f403-11e7-8523-2332d1229ae2.html

What steps is Hanson Bridgett taking to address concerns about the investigation?

Sabrina Brennan

From: Sabrina Brennan <sabrina@dfm.com>
Date: Wednesday, January 3, 2018 at 8:26 PM
To: Mary Topliff <Topliff@joblaw.com>
Cc: Sabrina Brennan <sbrennan@smharbor.com>
Subject: Re: Following up

Hello Mary,

I'm responding to your Jan 3, 2018 email below. You asked me about retaliation during your interview on Nov. 29, 2017, please go to approximately 1 hour 7 min into your recording to hear your questions and my response about retaliation.

During your interview, I said that board president Tom Mattusch removed me from multiple standing committee assignments and the Oyster Point Liaison Group. I'm not currently serving on any active committees. President Mattusch recently also voted against allowing the board to hold "committees of the whole" thereby blocking me from participating at all committee meetings and the Oyster Point Liaison Group. President Mattusch has repeatedly blocked me from participating on committees.

President Mattusch has also repeatedly blocked me from contributing agenda items at Regular Board Meetings.

During your interview, I didn't go into detail but I did briefly mention that President Mattusch blocked me from being an officer on the board. In 2017, he voted against me for every officer position on the board.

President Mattusch said during the Aug 16, 2017 Harbor Commission meeting that he was removing me from the Finance Committee because "actions have consequences." Link to meeting video: <https://www.youtube.com/watch?v=li4qySEPP7U&t=1449s>

President Mattusch has made threats towards me in person and on the phone. Telling me to "watch out" and saying that "more bad things are coming your way."

During your interview, we discussed President Mattusch's highly inappropriate invitation to go on an all expense paid safari hunting trip to Tanzania, Africa, the extremely demeaning pornographic email he sent me with the subject line "My last vacation photos", an inappropriate meeting in his new truck, his sexual harassment at dinners during CSDA training/events where he repeatedly steered the conversation towards sex, and his creepy long hugs.

During your interview, I spoke about the culture of harassment, retaliation, and gender discrimination at the Harbor District. I said that past Harbor District management employees and commissioners have harassed, retaliated against, and discriminated against me and past Harbor District employee Lisa Fernandez. I also mentioned that I witnessed past Harbor District employee Emily Cooper being kissed by a Harbor Commissioner. I reported this incident to Steven Miller after it happened and an outside investigation was not conducted.

I asked if you were going to conduct interviews regarding the culture of harassment, retaliation, and gender discrimination at the Harbor District. You said "no."

During your interview, you said you would follow-up with me and let me know if the Board of Harbor Commissioners will be provided with your full unredacted report. To-date I have not received a clear response to this question.

As I mentioned before General Manager Steve McGrath has made it clear to me on multiple occasions that he only works for President Mattusch and two other commissioners. I believe the details of my complaint against Mr. McGrath should be handled in a separate investigation.

Thanks,
Sabrina

On Jan 3, 2018, at 6:25 PM, Mary Topliff <Topliff@joblaw.com> wrote:

Dear Sabrina: I have not been retained to investigate your complaint against Steve McGrath. I am trying to

complete my investigation into your complaint against Tom Mattusch and would appreciate it if you could clarify or elaborate on what, if anything, Tom has done since you raised your complaint against him that you feel is retaliatory. Your email of 12/19 referred to Steve McGrath as being a surrogate for Tom and it would be helpful to know if and how that relates to your complaint against Tom.

Thanks,
Mary

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Compliance, Training, Investigations

From: Sabrina Brennan [<mailto:sabrina@dfm.com>]
Sent: Wednesday, January 03, 2018 4:10 PM
To: Mary Topliff <Topliff@joblaw.com>
Cc: sbrennan@smharbor.com; Edmundo Larenas <ELarenas@smharbor.com>
Subject: Re: Following up

Hello Mary,

There are questions about the investigation process that need to be resolved. Are you conducting a second investigation into my retaliation complaint against Steve McGrath in addition to my sexual harassment and retaliation complaint against Tom Mattusch?

I have not received any communication from the Harbor District or from Hanson Bridgett regarding concerns raised about the investigation.

Previously you emailed the following remarks regarding the investigation:

Dec 5, 2017: *"Finally, you asked whether my unredacted fact-finding report will be provided to the Board. I have passed along your inquiry to the District and either Steve McGrath or Steven Miller will respond directly to you."*

Dec 11, 2017: *"The issue of the handling of my report is not up to me but I believe that Steven Miller will be getting back to you on that."*

Here is an email quote from Steven Miller. Please note that to-date this is the only information I've been provided regarding how the investigation is being conducted.

Dec 8, 2017: *"When the investigation is complete, we will advise the entire Commission as to how the final report will be distributed. The decision will not be up to the investigator but will preliminarily be up to me..."*

Commissioner Larenas and I brought up concerns about the pending sexual harassment and retaliation investigation at the December 20th Harbor Commission meeting during "Commissioner Comments." The Harbor District's attorney Mr. Miller is running the investigation without input from the board or the public. Here's a link to the meeting video: <https://www.youtube.com/watch?v=FBCsW15L9C4>

Has the board been notified about my retaliation complaint against Steve McGrath?

The attached news clip is from the Half Moon Bay Review published on 12/27/17.

Thanks,
Sabrina

<image001.jpg>

<image002.jpg>