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MEMORANDUM

Date: January 10, 2018 **File:** 221302-10004

To: Ms. Candice Giove
IDC Director of
Communications

From: Michael P. Zweig
Mark J. Goldberg

Re: Preliminary Investigation

As you know, we have been asked by New York State Sen. Jeffrey Klein to conduct a preliminary investigation concerning the allegation that Sen. Klein, nearly 3 years ago, allegedly kissed a former staff member (the "Former Staffer") at a gathering of Senate members and staff, while both the Senator and the Former Staffer were standing outside a bar in Albany. Our investigation to date has included conducting more than 10 separate interviews with present and former staff, and others, and confirms the following:

- Sen. Klein unequivocally denies the allegation made by the Former Staffer.
- Sen. Klein did, on March 31, 2015, join staff members and others at a bar in Albany (then known as Justin's). Staff were gathered that evening, as they had done in the past, to celebrate the successful passage of a timely budget. Approximately 10 staff members of the Independent Democratic Conference (IDC), as well as Sen. Klein and Sen. Diane Savino, were present, along with other bar patrons. We have interviewed seven staff members present that night.
- All of the witnesses we spoke to confirmed that Sen. Klein did not drink excessively or seem in any way impaired that evening.
- Sen. Klein was present at Justin's for approximately one hour and spent nearly all of that time in the presence of Sen. Savino, who is also his girlfriend.
- Both Sen. Klein and Sen. Savino specifically recall an interaction that evening with the Former Staffer that was unusual. In the presence of Sen. Savino, the Former Staffer asked Sen. Klein if he would come to her family's house and join them in a Passover Seder. Such an invitation was unprecedented. Sen. Klein politely declined the Former Staffer's invitation. Sen. Savino found the invitation unusual enough to turn to one of Sen. Klein's staff members present to ask if he had heard the invitation.

- The Former Staffer is described by witnesses who were present at the gathering as having consumed alcoholic beverages throughout the evening.
- At one point during the evening, Sen. Klein went outside to have a cigarette. He did so while standing on a well-lit sidewalk, directly in front of the large picture window at the front of the bar. Because of the window, anyone outside Justin's was plainly visible to those inside the bar. Anyone standing on the sidewalk could also be readily seen by people on the street, as well as the patrons of the busy drinking establishment directly across the street.
- The evening following budget passage is always an active time, with many people, including other legislators and staff, and the Albany press corps, out on the street.
- Sen. Klein recalls that the Former Staffer followed him outside, was standing on the sidewalk in front of the picture window smoking a cigarette, and that they briefly conversed. Sen. Klein states unequivocally that he did not, as is alleged, kiss the Former Staffer.
- One staff member, who was inside the bar, recalls looking outside a number of times, through the picture window, and seeing both the Former Staffer and Sen. Klein. That staff member states that at no time did he witness Sen. Klein kiss the Former Staffer or observe the Former Staffer appearing to be upset in any way. Not one of the other witnesses interviewed observed any aspect of the activity complained of by the Former Staffer.
- Following his smoking break, Sen. Klein re-entered the bar. Shortly thereafter, he and Sen. Savino left the bar, together.
- The Former Staffer similarly rejoined the group, but is reported to have stayed a while longer at the bar, with the remaining group of staffers.
- Before the alleged incident, the Former Staffer had asked co-workers for employment recommendations made it known that she was looking for another job. In mid-April, the Former Staffer advised senior staff that she had accepted another position.
- In her resignation letter to Sen. Klein, the Former Staffer confirmed that she was resigning from the Independent Democratic Conference and that her last day of work would be May 7, 2015. She wrote to Sen. Klein in her letter:

"I am extremely grateful for the opportunity you provided me to work for the Independent Democratic Conference. The skills and knowledge I gained as a policy analyst and counsel will be invaluable as I move forward. I will miss everyone, but I know I have made a good decision. I wish you and the entire conference continued success. Thank you for your patience and cooperation with me during this time."



- The Former Staffer also forwarded a copy of her resignation letter to Sen. Klein's female Deputy Chief of Staff on May 7, 2015, approximately five weeks after the alleged incident supposedly took place. In her transmittal email, the Former Staffer wrote: "Again, thank you for everything over the last year and a half. It's been a privilege to work for you. All my best, [the Former Staffer]."
- Of the female staff members we interviewed at the Independent Democratic Conference, none reported ever having felt uncomfortable, unsafe, or threatened by Sen. Klein. They noted that Sen. Klein has been at the forefront of equal rights for women, hired many women in the past, given them senior roles, opportunities and significant responsibilities, and has maintained a safe work environment for female staff.
- Sen. Klein saw the Former Staffer briefly on May 7, 2015, when they were both leaving a conference meeting. The Former Staffer approached Sen. Klein to "thank him for the opportunity" and told him she was leaving her IDC employment because she was leaving for her "dream job."

Based upon the foregoing, and while our investigation is continuing, in our view it defies both reason and credibility to suggest Sen. Klein would have, in full view of both his longtime girlfriend, numerous staff members, and in the middle of a very visible and public street, assaulted the Former Staffer, as her allegation suggests.

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