

EXHIBIT A

PERRY LAWPRIVILEGED & CONFIDENTIAL
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ATTORNEY WORK PRODUCT**To:** Seton Hall University, c/o Judge Jose Linares, Acting General Counsel for Matter**From:** Perry Law**Date:** July 2, 2024**Re:** Perry Law Investigation of Kelli Nyre Sexual Harassment Allegations

I. Introduction

On March 10, 2024, Perry Law was engaged to investigate allegations of sexual harassment made by Seton Hall University's ("SHU" or the "University") former President, Dr. Joseph Nyre, and his wife, Kelli Nyre, in a complaint filed against the University on February 5, 2024. Specifically, Perry Law was tasked with investigating allegations of sexual harassment, discrimination and retaliation involving Mrs. Nyre and the former Chair of SHU's Board of Regents, Kevin Marino.

Both Dr. and Mrs. Nyre ignored numerous requests to meet with Perry Law. However, Mrs. Nyre's allegations appear in three written documents: 1) in a civil complaint filed in New Jersey Superior Court on February 5, 2024, against SHU and multiple others,¹ 2) in a written memo sent to Ms. Lori Brown, the University's Title IX Coordinator, on December 1, 2023 and 3) Ms. Brown's notes from a December 18, 2023 meeting with Mrs. Nyre dated December 21, 2023 that were memorialized, reviewed, edited, and approved by Mrs. Nyre.

A summary of Mrs. Nyre's relevant statements are as follows:

Mrs. Nyre alleges sexual harassment by Mr. Marino at two University events. First, the complaint alleges that at a Board of Regents annual dinner on June 9, 2021 (the "June 9, 2021 Dinner"), Mr. Marino allegedly "placed his hand on her back preventing [her] from moving, moved [her] hair away from her neck with his other hand, kissed [her] on the neck, and whispered into her ear, 'you know I love you.'"² The second, and only other allegation of sexual harassment listed in the complaint by Mrs. Nyre, alleges an interaction with Mr. Marino at a Board of Regents Christmas reception on December 6, 2022 (the "December 6, 2022 Reception"), where he allegedly "placed his hands on her shoulders and commented in a lascivious tone, "Look at [Kelli Nyre] rocking the Loubees," in apparent reference to Mrs.

¹ Notably, the Nyres did not name Mr. Marino as a defendant in their lawsuit.

² The details of Mrs. Nyre's allegations are derived from her public complaint against the University, as neither Dr. nor Mrs. Nyre agreed to participate in this investigation, despite several attempts to contact them through their counsel.

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Nyre's shoes. Mrs. Nyre repeated these allegations in both her December 1, 2023 memo and December 18, 2023 interview with Ms. Brown, nearly verbatim.

Perry Law has conducted an internal investigation into these claims on behalf of SHU. Perry Law interviewed eleven potential witnesses, reviewed prior statements provided by the Nyres and Mr. Marino to the University's Title IX office, and reviewed other documents provided by the University and by witnesses. We targeted our interviews to include both those identified as possibly having first-hand knowledge of the events in question, in addition to those charged with investigating the allegations on behalf of the University.³ Summaries of those witness interviews, which formed the primary basis of our factual investigation, are below. Mr. Marino agreed to be interviewed by Perry Law and provided numerous documents, text messages between relevant parties, and declarations in support of his account. Dr. and Mrs. Nyre, on the other hand, never responded to Perry Law's numerous interview requests, and never provided any documents to support their claims.

As detailed below, Perry Law found no evidence to substantiate Mrs. Nyre's allegations regarding Mr. Marino, despite the purported harassment allegedly occurring in public places in close proximity to numerous other individuals. Furthermore, it is highly unlikely that the events occurred as the Nyres now allege, given the totality of the evidence and the surrounding circumstances detailed more fully below.

II. Investigation Process

Perry Law reviewed dozens of documents provided by the University and potential witnesses, including, but not limited to:

- Statements provided by Mrs. Nyre and Mr. Marino during an initial investigation by SHU's Title IX office;
- Notes and memoranda of initial interviews conducted by SHU's Title IX office;
- Text messages and emails between Mr. Marino, his wife, and both Dr. and Mrs. Nyre;
- Certifications from:
 - Rita Marino
 - Joseph LaSala
 - Edward Cerny
 - Henry D'Alessandro
 - Robert Basso
- Photographs and attendance records from the June 9, 2021 Dinner;

³ This report does not address governance and policy recommendations, as that analysis is the subject of a separate engagement between the University and Nygren Consulting, LLC relating to policy and governance best practices in academia.

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- SHU's Policy Against Sexual Misconduct, Sexual Harassment and Retaliation;
- SHU's Title IX Grievance Procedure; and
- SHU's Guidelines for Responding to Complaints of Sexual Misconduct, Discrimination, Harassment and Retaliation

We interviewed eleven witnesses to determine whether there were any eyewitnesses to the allegations, including Mr. Marino, who adamantly denies them all. While investigating these alleged incidents of harassment, we observed improvements SHU could make to its reporting practices and structures. The following individuals were interviewed:

- Rev. Brian Muzás
- Rev. Gerald Buonopane
- Richard McMahon
- Rev. Dennis Mahon
- Patrick Murray
- Kim Capadona
- Rev. Lawrence Frizzell
- Rev. Douglas Milewski
- Lori Brown
- Kevin Marino
- Kevin Flood

All the above witnesses were cooperative, understanding the goal and direction of Perry Law's investigation. They were all engaged, articulate, and thoughtful in their responses to our questions. Not all those interviewed were able to provide information germane to our investigation and analysis. Rather than interviewing every person in attendance at the June 9, 2021 Dinner, in order to target our investigation, we attempted to interview all those seated at the Nyres' table in addition to all of the priests that were in attendance, in light of Mrs. Nyre's prior statement that she was standing next to a priest when the alleged harassment occurred. Similarly, we did not interview all attendees of the December 6, 2022 Reception, but instead targeted our investigation to individuals who had direct contact with Mrs. Nyre that evening.

On the advice of counsel, Regents Michael Lucciola and Henry D'Alessandro did not respond to our interview requests, submitted through their counsel, although Regent D'Alessandro submitted a certification, reviewed by Perry Law, which provided no support to any of the Nyres' claims. Regent Frank Walsh, who was seated at the same table as Mr. Marino and the Nyres at the June 9, 2021 Dinner, declined our request for an interview. Both Regent Flood and Mr. Marino were represented by counsel during their interviews.

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III. Interview Findings

A. Clergy Members

In Ms. Brown's signed notes from her December 18, 2023 interview with Mrs. Nyre, she stated that, during Mr. Marino's alleged harassment at the June 9, 2021 Dinner, "there was a priest next to her, but she did not recall his name." We contacted all clergy members present at the June 9, 2021, according to attendance records, five of whom agreed to be interviewed. Three of those clergy members—Reverend Brian Muzás, Reverend Dennis Mahon, and Reverend Lawrence Frizzell—did not recall the event in question and had no information to offer regarding Mrs. Nyre's allegations of harassment.

Reverend Douglas Milewski recalled attending the event but did not witness and was not aware of any inappropriate behavior by Mr. Marino toward Mrs. Nyre. Reverend Gerald Buonopane, who was seated at the same table as the Nyres and Mr. Marino during the dinner, recalled the event, but could not substantiate Mrs. Nyre's allegations of harassment and did not see anything resembling Mrs. Nyre's allegations. He recalls interactions between the Nyres and Mr. Marino throughout the event; however, he did not observe any inappropriate contact between Mr. Marino and Mrs. Nyre, nor any behavior by Mrs. Nyre that would suggest she felt uncomfortable or upset during or after the dinner. He was aware that Mr. Marino and Dr. Nyre had some history of personal conflict but recalled that they got along well and chatted pleasantly with one another during the dinner.

Thus, none of the clergy members we interviewed observed Mr. Marino engage in the alleged conduct or any inappropriate or harassing behavior by Mr. Marino during the June 9, 2021 Dinner, or at any other event.

B. University Regents

Dr. Nyre alleges in the civil complaint that he reported concerns about Mr. Marino's behavior, including his alleged harassment of Mrs. Nyre, to members of the University's Board of Regents on multiple occasions. Mrs. Nyre similarly claimed in her December 1, 2023 memo that her husband shared information about the alleged harassment at the June 9, 2021 Dinner "with the proper University Office" and "also shared the report with several University Regents." We requested interviews with several Regents, three of whom agreed to speak with us: Richard McMahan, Patrick Murray and Kevin Flood.

Regent McMahan, who served on the Board for ten years and attended many dinners, did not specifically recall the June 9, 2021 Dinner. However, he reported that he never saw Mr. Marino say or do anything inappropriate to Mrs. Nyre or anyone else at any University event, nor did he witness Mrs. Nyre express discomfort or interact differently with Mr. Marino than with other University officials.

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Regent McMahon recalled a special meeting of the Board initiated by Mr. Marino, at which Mr. Marino reported challenges he was having with Dr. Nyre. At the time, he recalls the Board suggesting that Mr. Marino try to smooth things over with Dr. Nyre, and Mr. Marino subsequently reported the issues had been resolved. Shortly after, in November 2022, Regent McMahon recalls being in Florida with Dr. Nyre and others to golf. During the trip, Dr. Nyre reported to the group that he felt Mr. Marino was inappropriately involved in an unrelated Law School investigation and overstepping his role as Chair of the Board. Regent McMahon recalled that Dr. Nyre told the group that Mr. Marino tried to “intimidate” him by having the lights dim in his office and calling Dr. Nyre in to speak to him.

According to Regent McMahon, Dr. Nyre never once mentioned sexual harassment of any type and never mentioned any incident between Mr. Marino and his wife, although Dr. Nyre had made negative statements about Mr. Marino to Regent McMahon in other contexts. For example, at a meeting on campus the week after the Florida trip, Dr. Nyre informed Regent McMahon that Mr. Marino had once screamed and cursed at Dr. Nyre on a phone call, when Dr. Nyre claims that Mr. Marino knew that Dr. Nyre was in a car with his wife and had the call on the speakerphone.

Regent McMahon indicated that he first heard about what he understood to be a Title IX complaint involving Mrs. Nyre in early 2023, when Regent Michael Lucciola informed him of a conversation he had with Dr. Nyre. Regent McMahon recalled that Dr. Nyre flew to Florida to have dinner with Regent Lucciola, apparently for the sole purpose of reporting Mrs. Nyre’s allegations regarding Mr. Marino. Regent McMahon subsequently discussed the allegations with Regent Murray, and the two called Kim Capadona, the University’s General Counsel, to discuss how the University should handle the apparent complaint. Ms. Capadona informed them that no investigation was necessary because Mrs. Nyre did not want to pursue a claim, and Regent McMahon did not hear anything further on the matter until the Nyres filed their lawsuit in February 2024.

Regent Murray was not at the June 9, 2021 Dinner, according to attendance records and his own recollection. He served on a special committee of the Board of Regents to investigate unrelated allegations made by Dr. Nyre about Mr. Marino’s alleged involvement in the Law School investigation in 2022. Dr. Nyre did not report any allegation regarding his wife or sexual harassment during that unrelated investigation, which began in or around December 2022. On a telephone call between Regent Murray and Dr. Nyre “some time later,” Dr. Nyre reported the instant allegations regarding the June 9, 2021 Dinner. This was the first time Regent Murray learned of this allegation. Regent Murray recalls that during the telephone call, Dr. Nyre indicated that Mrs. Nyre had already reported the alleged harassment to the Title IX office, but insisted that she did not want to take any further action, thus cutting off any potential investigation by the University. Regent Murray believed that Dr. Nyre made similar reports to Regent Lucciola and Regent James Boyle. Regent Murray recalled asking Dr. Nyre for

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permission to speak to Ms. Capadona about Mrs. Nyre's allegations, as he wanted to clarify whether the University was obligated to investigate what he understood to be an open complaint from Mrs. Nyre. With Dr. Nyre's consent, Regent Murray called Ms. Capadona, who informed him that it was "strictly up to the woman" whether to pursue an investigation, and that Mrs. Nyre had requested the University not move forward.

Regent Flood attended both the June 9, 2021 Dinner and December 6, 2022 Reception, and recalled both events. He had minimal interaction with the Nyres and Mr. Marino at the former, and did not witness any harassing or inappropriate behavior by Mr. Marino during the June 9, 2021 Dinner. He did not witness Mr. Marino touch or kiss Mrs. Nyre, nor did he notice any awkwardness or anything unusual between them at that event. Between that event and December 2022, neither of the Nyres, with whom he has had a personal friendship for nearly twenty years, expressed any concerns to him regarding harassing behavior by Mr. Marino or any other issue regarding Mr. Marino and Mrs. Nyre.

Regent Flood further stated that on December 6, 2022, while on his way to the Board Christmas dinner, he received a call from Dr. Nyre, who informed Regent Flood he was running late to the event and asked him to find Mrs. Nyre when he arrived and stay by her side until Dr. Nyre arrived. Dr. Nyre did not give any explanation as to why he made that request, and Regent Flood did not inquire. When he arrived at the event, Regent Flood saw Mrs. Nyre speaking to Mr. Marino, who appeared to be standing behind her with his hands on her shoulders. Regent Flood did not think anything of their interaction. Mr. Marino had already walked away by the time Regent Flood reached Mrs. Nyre, and he did not overhear any of their conversation. Regent Flood recalled that Mrs. Nyre appeared more excited to see him than usual, but stated that she did not seem uncomfortable or express any concerns about her interaction with Mr. Marino. Regent Flood did not witness any further interactions between Mrs. Nyre and Mr. Marino that evening.

The following day, December 7, 2022, Regent Flood reports that he visited the Nyres' home to return their car, which he had borrowed the previous day, as he occasionally did when visiting town. While there, Dr. Nyre told him that Mr. Marino had sexually harassed Mrs. Nyre at the Board event the previous evening, as well as at the June 9, 2021 Dinner, describing substantially the same behavior alleged in the Nyres' February 2024 complaint. Regent Flood reported that he was quite upset to hear these allegations but recalled that Dr. Nyre seemed very calm in comparison, to the point that if anyone had overheard their conversation, they would have assumed that Regent Flood was the person reporting an issue. Regent Flood stated that he was aware previously that there was personal friction between Dr. Nyre and Mr. Marino related to the law school investigation, but prior to this conversation had not heard of any issues between Mr. Marino and Mrs. Nyre.

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When Regent Flood asked what Dr. Nyre planned to do about the alleged harassment, Dr. Nyre informed him that the allegations had been documented with the University and that the issue was being handled by Regent Murray. Regent Flood did not recall sharing what Dr. Nyre told him with anyone else at the University, and did not report the allegations to the Title IX Office or the legal department.

C. University Administrators

We interviewed two members of the University's administration who were primarily responsible for responding to harassment allegations raised by the Nyres prior to Perry Law's involvement: Kim Capadona, SHU's General Counsel; and Lori Brown, who leads the University's Title IX office.

According to Ms. Capadona, Dr. Nyre first reported the harassment in question to her in the summer of 2021⁴, when he reported that his wife was harassed by Mr. Marino at the Board dinner in June of 2021. Ms. Capadona was present at the dinner and reports that she did not witness any of the alleged behavior, nor did she observe Mrs. Nyre act uncomfortable or upset that evening.

Upon hearing the allegations, Ms. Capadona inquired into Mrs. Nyre's wellbeing and Dr. Nyre informed her that Mrs. Nyre was "very upset." Ms. Capadona explained to Dr. Nyre that there was a procedure to be followed regarding allegations of harassment, which included hiring an outside investigator and notifying Cardinal Joseph Tobin, President of the Board of Regents and Chair of the Board of Trustees. Dr. Nyre was very concerned about his complaint "getting out" and wanted it to remain confidential. Ms. Capadona explained that both she and Dr. Nyre were mandatory reporters, and thus were required to report the allegations, and the University was obligated to conduct a prompt and thorough investigation. Typically, that investigation would be conducted by Ms. Brown, however Ms. Capadona felt that it was best to engage an outside investigator, given the nature of the parties' positions at the University and their relationship with Ms. Brown and other senior administrators. After Ms. Capadona explained all of this, Dr. Nyre asked her not to report the allegations to anyone, including Cardinal Tobin, until Dr. Nyre had a chance to speak to his wife.

The day after Dr. Nyre made his report to her, Ms. Capadona retained an outside firm to investigate. However, the investigation did not occur because, despite Ms. Capadona following up with Dr. Nyre multiple times, Dr. Nyre stated that his wife did not want to move forward with the complaint. Ms. Capadona did not report the allegations to Cardinal Tobin or the Title IX office.

⁴ Ms. Capadona did not recall the specific date of this report, and declined to provide Perry Law with any notes she may have taken.

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Ms. Capadona stated that other than Dr. Nyre's complaint, nobody else ever reported allegations of sexual harassment regarding Mr. Marino. She recalled that, after the Nyres filed their complaint, Regent Flood mentioned that he may have observed some similar behaviors, but he was vague, and Mrs. Nyre wasn't mentioned.⁵ Ms. Capadona indicated that she herself had made a complaint against Mr. Marino involving intimidation and hostile work environment. She stated that those allegations were not sexual in nature and had been settled. She declined to elaborate any further.

Ms. Brown, who reports directly to Ms. Capadona, was also interviewed. She stated that she has never met Mr. Marino and was not aware of any allegations that he had harassed Mrs. Nyre until Mrs. Nyre emailed her a memo detailing the allegations at issue on December 1, 2023. However, she indicated that in March 2023 she was told by Dr. Nyre that Mr. Marino made inappropriate gestures towards Donna McMonagle, then the University's Chief Financial Officer. When Ms. Brown asked Ms. McMonagle about the allegations, Ms. McMonagle refuted the facts as reported and told Ms. Brown that she did not want to make a complaint.⁶ When Dr. Nyre reported these allegations to Ms. Brown, he made no mention of Mr. Marino harassing Mrs. Nyre.

After receiving Mrs. Nyre's complaint by email on December 1, 2023, Ms. Brown reached out to Mrs. Nyre and met with her to discuss the allegations on December 18, 2023. Ms. Brown recalled asking Mrs. Nyre why she decided to come forward after previously declining to make a report, and recalled that Mrs. Nyre responded she was ready to make a complaint because she was frustrated that Dr. Nyre's other complaints against Mr. Marino were not moving forward. Ms. Brown stated that Mrs. Nyre seemed genuinely upset and her eyes teared up when telling Ms. Brown what happened. Ms. Brown wrote a memo memorializing what Mrs. Nyre told her, which Mrs. Nyre edited and approved, a copy of which was provided to and reviewed by Perry Law.

Ms. Brown subsequently interviewed Dr. Nyre on December 20, 2023, in order to learn the identities of the University officials to whom he previously reported the harassment allegations. Dr. Nyre informed Ms. Brown that he told two people, Regents Flood and D'Alessandro. Ms. Brown was surprised and concerned that although they are trained and required to report such allegations, they did not and thus proper procedure was not followed to commence an investigation after they were informed of the allegations. Ms. Brown was surprised

⁵ Mr. Flood made no such statement when interviewed by Perry Law.

⁶ As discussed below, Ms. McMonagle provided a sworn certification on June 12, 2024 further disputing these allegations and suggesting that Dr. Nyre intentionally misrepresented her interactions with Mr. Marino in a December 2023 email to her and others, as well as in the Nyres' February 5, 2024 complaint against the University.

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to learn that Ms. Capadona had also previously been told of the allegations and that she also did not report them to the Title IX office.

Ms. Brown ultimately determined that the University's "Title IX Grievance Procedure" did not apply to Mrs. Nyre's complaint because Mrs. Nyre was not an employee of the University. However, the complaint warranted a thorough investigation under the University's "Policy Against Sexual Misconduct, Sexual Harassment and Retaliation," which explicitly applies to University volunteers, visitors and guests, and "Guidelines for Responding to Complaints of Sexual Misconduct, Discrimination, Harassment and Retaliation," which apply to complaints of harassment involving "members of the University community," including Trustees and guests. Given the parties involved, Ms. Brown felt it best to hire an outside party to complete the investigation, which led to Perry Law's engagement. Beyond alerting Mr. Marino to the complaint against him, Ms. Brown and the Title IX office had no further involvement in the investigation.

D. Kevin Marino

Mr. Marino came to Perry Law accompanied by his attorney and was questioned about these allegations. He unequivocally denies the Nyres' allegations and claims that Dr. Nyre and Ms. Capadona are retaliating against him after they themselves violated University policies. While not within the scope of Perry Law's investigation, Mr. Marino also discussed the history of his conflict with Dr. Nyre, which covered some of the additional allegations in the Nyres' February 2024 complaint, as he believed it provided context for the harassment allegations specifically at issue here. We include discussion of some of this background in this report only in the interest of completeness and clarity, and not in any attempt to validate or dispute any other allegations made by Dr. Nyre in the February 2024 complaint.

Mr. Marino stated that he was recruited by Dr. Nyre to be Chair of the Board of Regents after Dr. Nyre was elected President in January 2019. For roughly the next four years, Mr. Marino believed he and Dr. Nyre worked exceedingly well together, bringing the University to economic prosperity, while navigating unfortunate times with minimal damage to the school. In addition to a solid working relationship, Mr. Marino felt they developed a strong friendship, and together with their spouses and families, socialized both at work events and personal events, including the June 9, 2021 Dinner.

Mr. Marino stated that he first questioned Dr. Nyre's ethics and actions in November 2022, when Mr. Marino expressed concern about how an investigation into alleged embezzlement at the law school was being handled by Dr. Nyre and others. An investigation into the matter, which Mr. Marino believed was directed by Dr. Nyre, concluded that the fault was attributable to the dean of the law school failing to detect the issue sooner. Mr. Marino disagreed with this conclusion and Dr. Nyre's assessment. Mr. Marino indicated that he believes this disagreement was the genesis of the deterioration of his relationship with Dr. Nyre. He further

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noted the temporal relationship between the law school disagreement and the Nyres' claims against him, which he believes were lodged in retaliation.

Mr. Marino also discussed an allegation made by Kim Capadona, which he believes was falsely made in order to bolster the Nyre complaint. Ms. Capadona's allegations were not the subject of our investigation.

Mr. Marino stated that in November 2022, during a routine weekly call held between Dr. Nyre and Mr. Marino, Dr. Nyre uncharacteristically included Ms. Capadona and Patrick Lyons on the call. During said call, Mr. Marino stated that he was going to call a meeting of the Board's executive committee, outside the presence of Dr. Nyre, to discuss his handling of the law school matter. Mr. Marino stated that Dr. Nyre responded angrily and threatened Mr. Marino's position on the Board. Mr. Marino stated that when he requested to see documents relating to the investigation into the law school, both Dr. Nyre and Ms. Capadona refused to comply and obstructed the request.

Mr. Marino subsequently learned that Dr. Nyre met with members of the Committee on Regents in December 2022 and made various complaints about Mr. Marino, including claims that Mr. Marino would scream "I'm the (expletive) chairman of the board." According to Mr. Marino, Dr. Nyre's complaints involved accusing Mr. Marino of psychological manipulation by dimming office lights during meetings, and that Mr. Marino had a conflict of interest regarding the law school investigation.⁷ Mr. Marino stated that Dr. Nyre never mentioned Mrs. Nyre's claims against Mr. Marino during those discussions, which he believes is an indicator that these claims are a recent fabrication.

Despite these issues, Mr. Marino stated that he attempted to continue to work with and repair the relationship with Dr. Nyre. As a result, over the next several months, between December 2022 and his resignation from the Board in October 2023, Mr. Marino attended both University and social events with his wife and Dr. and Mrs. Nyre.

Mr. Marino stated that he first learned in December 2023 that Mrs. Nyre had alleged he harassed her at two University events, including one more than two years prior. Mr. Marino emphatically denies both accusations and categorically states they are false and never occurred.⁸

Mr. Marino, like several other witnesses, specifically recalled attending the June 9, 2021 Dinner, as it was the first post-covid University board meeting. Mr. Marino stated, and seating

⁷ Mr. Marino also explained that a legal opinion had been rendered by outside counsel, Leo Hurley, which concluded that there was no conflict of interest, that Dr. Nyre had unsuccessfully pressed Mr. Hurley to change that conclusion, and that Mr. Hurley had refused.

⁸ To be clear, Mr. Marino does not believe that Mrs. Nyre could have misinterpreted his actions in any way. He denies ever engaging in the behavior she alleges—specifically: preventing her from moving, touching her hair, kissing her, telling her he loved her, or commenting on her shoes.

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charts confirmed, that he was seated at the same table as his wife, Mrs. Nyre and Dr. Nyre, which was typical at these functions. Mr. Marino stated that he was with his wife the entire evening and indicated that everything Mrs. Nyre said happened between them was “pure fiction.” Mr. Marino denies placing his hand on Mrs. Nyre’s back, touching her hair, kissing her neck, speaking to her in close proximity, or saying he loves her. Mr. Marino’s wife corroborated his account. Although she was not interviewed for this investigation, she previously provided a sworn certification to the University’s Title IX office, dated January 15, 2024. Mrs. Marino confirmed that she “was in [Mr. Marino’s] company the entire evening” at the June 9, 2021 Dinner, and stated, “[a]t no time did he approach Kelli, touch her back, kiss her neck, or whisper in her ear.”

According to Mr. Marino, after the June 9, 2021 Dinner, both Dr. Nyre and Mrs. Nyre continued to socialize with the Marinos. Mr. Marino voluntarily provided Perry Law text messages between Dr. Nyre and Mr. Marino after the dinner and they reflect a friendly relationship between the two couples. In these text messages, neither Dr. Nyre nor Mrs. Nyre ever expressed that there was any issue or discomfort between them. According to Mr. Marino, and as corroborated by text messages, the two couples continued to socialize during this time at both University and non-University related events. Mr. Marino’s calendar entries confirm that the day after the alleged incident, Dr. Nyre and Mr. Marino sat together at a Board meeting and, as observed by others, acted comfortable and friendly with each other. This has been corroborated by others. Mr. Marino provided Perry Law with an email sent by Dr. Nyre reflecting that shortly after this meeting, Dr. Nyre praised Mr. Marino’s behavior and leadership, which Perry Law views as inconsistent with the claims now made.

Our investigation also revealed another surprising, and critical, fact: namely, approximately six weeks after the alleged kissing incident at the June 9, 2021 Dinner, the Nyres and their children voluntarily went to Mr. Marino’s vacation home in Martha’s Vineyard and the two families spent the day together. Text messages provided by Mr. Marino between himself and Dr. Nyre, and Mrs. Marino and Mrs. Nyre, indicate that the Nyres enthusiastically accepted an invitation to visit the Marinos’ vacation home on July 21, 2021. This was not required by Dr. Nyre’s position, but rather was a purely social event for the two families. The families swam, ate, and drank together and Mr. Marino recalled that he and Mrs. Nyre had a long conversation about a book they both were reading, and that she did not express or show any discomfort in his presence. Text messages provided by Mr. Marino show that the Nyres subsequently thanked the Marinos for a “great day” and a “fabulous time.” These text messages also show that Mrs. Nyre initiated additional social plans with Mrs. Marino that summer, inviting her to go for a walk or take a yoga class together in August.

According to Mr. Marino, the cordial and friendly relationship between the Nyres and Marinos continued for the next two and a half years, until a few weeks into Dr. Nyre and Mr.

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Marino's falling out over how Dr. Nyre handled the law school investigation, at which point Mrs. Nyre made the instant claims.

With respect to the alleged comment regarding Mrs. Nyre's shoes, Mr. Marino recalled that his wife and Mrs. Nyre indeed had a friendly and brief discussion about Mrs. Nyre's shoes, which Mrs. Nyre said Dr. Nyre purchased for her.⁹ He denies touching Mrs. Nyre or making any suggestive comments or gestures towards her. He further denies making any comments about her shoes himself.

Mr. Marino believes that Mrs. Nyre invented a second allegedly inappropriate action on Mr. Marino's part to bolster the claim regarding the June 9, 2021 Dinner, especially since Mr. Marino believes that Mrs. Nyre made no mention of that first alleged incident for two years¹⁰. Mr. Marino heard nothing of either allegation until December 5, 2023, when Ms. Brown forwarded him a copy of Mrs. Nyre's December 1, 2023, memo detailing her complaint. Mr. Marino responded through his counsel on January 15, 2023, refuting the allegations and detailing the same facts summarized here.

IV. Analysis

Based on the statements of witnesses and documents provided, we have found no evidence to corroborate the Nyres' allegations that Mr. Marino sexually harassed or otherwise behaved inappropriately with Mrs. Nyre. In fact, witness recollections and additional documentation, such as emails and text messages, support that Mr. Marino and Mrs. Nyre maintained a friendly relationship until Mrs. Nyre first made allegations of harassment to SHU's Title IX office on December 1, 2023. These particular allegations were reported after more than a year of personal conflict between Mr. Marino and Dr. Nyre, and what the Nyres viewed as inaction by the University concerning those issues.

As a threshold matter, there are no witnesses to corroborate Mrs. Nyre's account of Mr. Marino's behavior at either the June 9, 2021 Dinner or December 6, 2022 Reception. We spoke with the majority of the individuals seated with the Nyres and the Marinos at the first event, and several priests who attended the event, given Mrs. Nyre's recollection that a priest was standing beside her when the alleged harassment occurred. None of those individuals witnessed any harassing, inappropriate or even unusual contact between Mr. Marino and Mrs. Nyre. Everyone we spoke to unequivocally denied seeing Mr. Marino touch Mrs. Nyre's hair or kiss her neck, or hearing him say, "You know I love you." To the contrary, those who recalled seeing the two

⁹ Mrs. Marino's sworn certification dated January 15, 2024 confirms that Mrs. Marino "participated in the conversation with [Mrs. Nyre] and [Mr. Marino] about the shoes [Dr. Nyre] had purchased for her."

¹⁰ Mr. Marino does not appear to be aware that Ms. Capadona states that Dr. Nyre reported to her in the Summer of 2021.

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together, including Reverend Buonopane, who was seated at their table for the entire evening, described their interactions as friendly.

Similarly, no one we spoke to overheard Mr. Marino comment on Mrs. Nyre's shoes at the December 6, 2022 Reception. Nor does anyone recall Mrs. Nyre appearing uncomfortable or afraid at either event. Again, Reverend Buonopane, who sat across from Mrs. Nyre at the first event, observed her acting normally throughout the dinner. Regent Flood, who approached Mrs. Nyre immediately after she spoke to Mr. Marino at the second event, did not note any discomfort following that interaction. Given the very public nature of the two events in question, and the number of people in attendance, it seems almost impossible to believe that the harassment Mrs. Nyre alleges could have occurred without being noticed by a single witness.

Mrs. Nyre's allegations are further belied by her interactions with Mr. Marino following the two events in question, which remained friendly on both sides. Texts provided by Mr. Marino show that, after the June 9, 2021 Dinner, Mrs. Nyre accepted invitations to Mr. Marino's vacation home and socialized with his wife and him without hesitation or in any way mentioning any discomfort being in Mr. Marino's presence, including at purely social non-University events. There was no obligation on the part of the Nyres to engage in these purely social activities, including joint family outings. Mr. Marino provided several text exchanges with Mrs. Nyre and Mrs. Marino making plans for both families to meet and for the couples to go out to dinner. The same was true with Dr. Nyre, who frequently corresponded with Mr. Marino regarding University matters and praising Mr. Marino's leadership.

A text message provided by Mr. Marino to Perry Law reflects that at one point, in December 2021, Dr. Nyre texted Mr. Marino and invited him to join Mrs. Nyre and the Newark Mayor in a suite at a SHU men's basketball game, where Dr. Nyre was not present. The fact that both Dr. and Mrs. Nyre apparently felt comfortable for Mrs. Nyre to be nearly alone with Mr. Marino, without her husband present, after the alleged June 9, 2021 encounter, again suggests that Mrs. Nyre felt comfortable in Mr. Marino's presence, and had not told her husband anything derogatory about Mr. Marino's behavior at that point. Otherwise, it is hard to believe that Dr. Nyre would have invited Mr. Marino to be with Mrs. Nyre without Dr. Nyre present. This circumstantial evidence undercuts the Nyres' allegation that Mrs. Nyre was so disturbed by her encounter with Mr. Marino in June 2021, that she needed Regent Flood to stay by her side—ostensibly, to protect her—at the December 6, 2022 Reception until Dr. Nyre arrived. Surely, if that were the case, the Nyres would not have gone out of their way to spend more time with Mr. Marino than was strictly required.

As far as we have seen and as the University has documented, Mr. Marino has never been the subject of harassment allegations by any other individual, at the University or elsewhere. Mr. Marino is not aware of any similar complaints made against him. Further, as attested to in a sworn certification, Dr. Nyre previously encouraged at least one other woman to make a false

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harassment allegation against Mr. Marino. Ms. McMonagle, the University's former Chief Financial Officer, certified in writing on June 12, 2024, that in March 2023, Dr. Nyre asked her pointed questions about how Mr. Marino physically positioned himself in a conversation with her, and that Ms. McMonagle "did not consider [their] interaction to have been sexual in any way." Ms. McMonagle was subsequently called in for an interview with Ms. Brown regarding the interaction, despite Ms. McMonagle never making a complaint of any kind, and Ms. McMonagle again made that clear that she did not feel Mr. Marino sexually harassed her "in any way." Ms. McMonagle later had a conversation with Michele Nelson, the University's former Vice President of Board Affairs and Strategy, who indicated that she also felt Dr. Nyre "had tried to encourage her to report that Mr. Marino sexually harassed her," although "she did not feel that such harassment had occurred." This apparent pattern of misconstruing, if not outright fabricating, Mr. Marino's interactions with women—and seemingly reporting those interactions as sexual harassment—further calls into question the veracity of Dr. Nyre's reports to Ms. Capadona, Regent Flood and others regarding Mr. Marino's contact with Mrs. Nyre, as well as Mrs. Nyre's later allegations against Mr. Marino.

Furthermore, despite multiple opportunities, both Dr. and Mrs. Nyre have repeatedly declined to participate in any substantive investigation of these allegations, including this investigation. Dr. Nyre twice informed University officials, in summer 2021¹¹ and December 2022, that Mrs. Nyre did not wish to pursue a complaint of any kind, and in fact prevented Ms. Capadona from initiating an investigation and reporting the allegations to Cardinal Tobin as required under University policies. And while they initially cooperated with Ms. Brown, the Nyres evaded multiple requests to be interviewed for this investigation. Their refusal to provide any information beyond bare allegations, or to assist the University in rooting out potentially serious misconduct, does little to rebut the narrative that these claims were invented as a means to damage Mr. Marino's reputation or grant Dr. Nyre greater leverage in his action against the University. Indeed, that narrative seems supported by Mrs. Nyre's explanation to Ms. Brown that she decided to report the alleged conduct after two and a half years because Dr. Nyre's other complaints regarding Mr. Marino had not been sufficiently addressed. Perry Law's investigation found no evidence to support these claims.

Mrs. Nyre claims in the February 5, 2024 complaint that the University "failed to perform any formal investigation into" her allegations against Mr. Marino, "let alone take remedial action to put the conduct to a stop." Perry Law found no evidence to support that claim. As described above, Dr. Nyre prevented multiple attempts to investigate these allegations, and when Mrs. Nyre ultimately agreed to pursue a claim, the University's Title IX office acted swiftly to initiate

¹¹ Perry Law takes no position as to whether Ms. Capadano's recollection that Dr. Nyre report occurred in the "summer 2021" is accurate.

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an investigation and determine that an outside firm was necessary to ensure an independent inquiry.

V. Conclusion

Based on the foregoing, we conclude that there is no evidence to support that Mr. Marino sexually harassed Mrs. Nyre, or that the University intentionally ignored or diminished any such allegations made by the Nyres. Despite the Nyres' account, not a single witness corroborates the alleged instances of harassment at either the June 9, 2021 Dinner or December 6, 2022 Reception. Mr. Marino vehemently denies these claims and has provided evidence of a friendly relationship between himself and both Dr. and Mrs. Nyre, even after the dates of the Nyres' allegations that further tend to rebut these claims. Furthermore, Mrs. Nyre has repeatedly refused to cooperate with the University's attempts to investigate these claims, including this investigation, and has not provided anything to substantiate her claims.