



SHELDON SILVER
Speaker

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

Room 832
Legislative Office Building
Albany, New York 12248
(518) 455-3781

December 19, 2014

Hon. Micah Kellner
c/o Arnold N. Kriss, Esq.
12 William Street, 22nd floor
New York, N.Y. 10038-3804

Dear Mr. Kellner:

I am in receipt of the attached findings and recommendations from the Assembly Standing Committee on Ethics and Guidance in relation to the hearing held to review allegations that you engaged in sexual harassment in 2012 and 2013. As you are aware, the Committee is a bipartisan body made up of eight Members of the Assembly. The Committee's findings and recommendations were made unanimously.

The Committee indicated that although you defaulted in response to the Notice of Hearing issued by the Ethics Committee, the Committee nevertheless met to consider the evidence developed by the Committee's independent investigator, carefully reviewed and considered this matter, and made the following findings:

1. Throughout 2012 and 2013, you created a sexually hostile work environment through a pattern of repeated and inappropriate conduct that included but was not limited to making unwelcome and offensive comments of a sexual nature;
2. Your conduct violated the Assembly's Sexual Harassment Policy, which is predicated upon applicable laws; and
3. Your conduct is unbecoming of a Member of the Assembly and reflects poorly on the entire body.

The Committee recommended that as your offices have already been closed, I issue to you and publicly release a letter of further admonition and severe reprimand as a sanction for the creation of a hostile work environment.

I accept the recommendation of the Committee in full. Therefore, I hereby and again admonish and reprimand you for your conduct. You have been found to have engaged in sexual harassment in 2012 and 2013 in violation of the Assembly's Harassment Policy, in addition to and distinct from the previous findings of the Committee, upheld on appeal by Judge Levine, that you engaged in sexual harassment in 2009 and 2011.

To reiterate, such conduct is unbecoming a Member of the Assembly, it reflects poorly on the entire body, and it will not be tolerated in the New York State Assembly.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sheldon Silver". The signature is fluid and extends to the right with a long horizontal stroke.

Sheldon Silver
Speaker



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

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CHARLES D. LAVINE
Assemblyman 13th District

CHAIR
Ethics and Guidance Committee

CO-CHAIR
Legislative Ethics Commission

December 17, 2014

Via FCM and Email

Speaker Sheldon Silver
Legislative Office Building
Albany, New York 12248

Dear Speaker Silver:

On December 17, 2014, the Ethics Committee held a second hearing in executive session to review allegations that Assembly Member Micah Kellner had engaged in sexual harassment in 2012 and 2013. These allegations arose as a result of the climate survey performed in Assembly Member's District Office on May 20, 2014, in accordance with your December 30, 2013 Determination finding Assembly Member Kellner engaged in sexual harassment in 2009 and 2011.

The Committee held the December 17, 2014 hearing in response to your letter of November 13, 2014, in which you referred the sexual harassment allegations back to the Ethics Committee to consider whether further proceedings should be considered to address the concerns stated in Judge Levine's decision of November 10, 2014. On December 1, 2014, Chair Lavine wrote you to advise that the Committee had already issued a new notice of hearing to Assembly Member Kellner (in accordance with the newly adopted Assembly Policy Prohibiting Harassment, Discrimination and Retaliation ("Assembly Harassment Policy")) and that a hearing was scheduled for December 15, 2014, but might be moved to accommodate the schedule of Assembly Member Kellner's counsel, Arnold Kriss.

The Committee did adjourn the private hearing to accommodate Mr. Kriss, but ultimately, Assembly Member Kellner decided not to appear before the Committee or submit an affidavit, which the Notice of Hearing also permitted. Instead, he had his counsel write to Chair Lavine on December 8, 2014 and state, "Please be advised that Assembly Member Kellner has no reason to appear before the Assembly Standing Committee on Ethics and Guidance on Tuesday, December 17, 2014 at 10:30 a.m."

Having met to consider the evidence developed by the Ethics Committee's independent neutral investigator, Rossein Associates, the Committee finds that in 2012 and 2013, Assembly Member Kellner violated the Assembly Harassment Policy and New York State law by creating a sexually hostile work environment for one of his female employees. The Ethics Committee also finds that Assembly Member Kellner engaged in inappropriate conduct of a sexual nature toward another female employee.

Although Assembly Member Kellner defaulted in response to the Notice of Hearing issued by the Ethics Committee, the Committee nevertheless carefully reviewed and considered this matter, including reviewing the Report of Rossein Associates and the summary of all of the witness interviews that Rossein Associates conducted. Based on all the evidence before it, the Committee unanimously makes the following findings:

1. Throughout 2012 and 2013, Assembly Member Kellner created a sexually hostile work environment through a pattern of repeated and inappropriate conduct that included but was not limited to making unwelcome and offensive comments of a sexual nature.
2. That conduct violated the Assembly's Sexual Harassment Policy, which is predicated upon applicable laws.
3. That conduct is unbecoming of a Member of the Assembly and reflects poorly on the entire body.

It is the Committee's considered judgment that Assembly Member Kellner's conduct constituted a violation of the Assembly Harassment Policy and that such conduct warrants a response that assures the public that the Assembly does not tolerate sexual harassment and reminds Members that such conduct will result in swift and appropriate punishment. Since Assembly Member Kellner's offices have already been closed, we recommend, as a sanction for the creation of a hostile work environment that you issue to Assembly Member Kellner and publicly release a letter of further admonition and severe reprimand, stating that Assembly Member Kellner has, after a second hearing, again been found to have engaged in sexual harassment in 2012 and 2013, in violation of the Assembly's Harassment Policy; that such conduct was unbecoming of a Member of the Assembly and reflects poorly on the entire body; and that such conduct will not be tolerated in the NYS Assembly.

Respectfully submitted,

Charles Lavine

Paul A.

Michael A. Masterson

Robert D. DePrey

Joseph M. Hughes

Kevin L. Zehner

Michael L. Luss

Kevin A. Cahill