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# House Calendar No. 193

115TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 115–1041

# IN THE MATTER OF ALLEGATIONS RELATING TO REPRESENTATIVE RUBEN KIHUEN

## REPORT

OF THE

## COMMITTEE ON ETHICS

NOVEMBER 20, 2018.—Referred to the House Calendar and ordered to be printed

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## LETTER OF TRANSMITTAL

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON ETHICS,
*Washington, DC, November 16, 2018.*

Hon. KAREN L. HAAS,
*Clerk, House of Representatives,*
*Washington, DC.*

DEAR MS. HAAS: Pursuant to clauses 3(a)(2) and 3(b) of Rule XI of the Rules of the House of Representatives, we herewith transmit the attached report, "In the Matter of Allegations Relating to Representative Ruben Kihuen."

Sincerely,

SUSAN W. BROOKS,
*Chairwoman.*
THEODORE E. DEUTCH,
*Ranking Member.*

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**House Calendar No. 193**

115TH CONGRESS *2d Session* } HOUSE OF REPRESENTATIVES { REPORT 115–1041

# IN THE MATTER OF ALLEGATIONS RELATING TO REPRESENTATIVE RUBEN KIHUEN

NOVEMBER 20, 2018.—Referred to the House Calendar and ordered to be printed

Ms. BROOKS, from the Committee on Ethics, submitted the following

## R E P O R T

In accordance with House Rule XI, clauses 3(a)(2) and 3(b), the Committee on Ethics ("Committee") hereby submits the following Report to the House of Representatives:

## I. INTRODUCTION

On December 21, 2017, the Committee, in accordance with House Rule XI, clause 3, and Committee Rules 10(a)(2) and 18, unanimously voted to establish an investigative subcommittee ("ISC") to determine whether Representative Kihuen engaged in conduct that constitutes sexual harassment, in violation of House Rules, law, regulations, or other standards of conduct. On September 26, 2018, the ISC transmitted its Report to the full Committee, summarizing its findings and recommending that the Committee reprove Representative Kihuen for his conduct.

The Committee agrees with the findings and conclusions the ISC reached following its thorough nine-month investigation.[1] Specifically, the Committee found that Representative Kihuen made persistent and unwanted advances towards women who were required to interact with him as part of their professional responsibilities. The Committee also found that Representative Kihuen's actions violated clause 1 and clause 2 of the Code of Official Conduct, and that his conduct warrants reproval by the Committee.

On November 15, 2018, the Committee voted to adopt the ISC's Report, which, along with this Report, will serve as a reproval of

[1] The Committee thanks the Members of the ISC for their efforts and attention to this matter.

Representative Kihuen. The ISC's Report is transmitted as an appendix to this Report.[2]

## II. PROCEDURAL HISTORY

On December 21, 2017, the Committee voted to establish an ISC to investigate allegations involving Representative Kihuen. On January 2, 2018, the Committee announced that Representative Kenny Marchant was designated ISC Chairman, Representative Yvette Clarke was designated ISC Ranking Member, and Representative Jackie Walorski and Representative Brian Higgins were designated Members of the ISC.

The ISC issued voluntary requests for information to Representative Kihuen and six other individuals. In response to those requests, the ISC obtained and reviewed over 2,700 pages of materials. The ISC met a total of eleven times and interviewed twelve witnesses, including individuals who have publicly raised allegations against Representative Kihuen, corroborating witnesses, members of Representative Kihuen's campaign and congressional staffs, character witnesses proffered by Representative Kihuen, and Representative Kihuen himself. In addition, the ISC reviewed Representative Kihuen's written submissions regarding the allegations in this matter.

On September 26, 2018, the ISC unanimously voted to adopt and issue its Report, finding that Representative Kihuen violated clause 1 and clause 2 of the Code of Official Conduct. The ISC did not recommend a sanction requiring floor action by the House of Representatives, but did recommend that the Committee reprove Representative Kihuen, a sanction which the Committee is authorized by the House Rules to issue on its own authority.[3] As the Committee has noted previously, reproval by the Committee is "intended to be a clear public statement of rebuke of a Member's conduct issued by a body of that Member's peers acting . . . on behalf of the House of Representatives."[4]

Pursuant to House Rule XI, clause 3(a)(2), which provides that the Committee may report to the House its findings and conclusions for final disposition of investigative matters after "notice and hearing," the Committee provided Representative Kihuen with a copy of the ISC Report on October 2, 2018, and offered him the opportunity to be heard orally and/or in writing by the full Committee. Representative Kihuen responded to the ISC's Report through a written submission and by appearing before the Committee on November 15, 2018. Representative Kihuen's written submission is attached as an appendix to this Report.[5] The Committee considered the ISC's Report, as well as Representative Kihuen's submissions and appearance before the Committee, and agreed with the ISC that Representative Kihuen's actions violated clause 1 and clause 2 of the Code of Official Conduct.

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[2] *See* Appendix A.

[3] House Rule XI, clause 3(a)(1).

[4] Comm. on Ethics, *In the Matter of Allegations Relating to Representative Ed Whitfield,* H. Rep. 114–685, 114th Cong. 2d Sess. 2 (2016) (hereinafter *Whitfield*) (*quoting* Comm. on Standards of Official Conduct, *In the Matter of Representative E.G. "Bud" Shuster,* H. Rep. 106–979, 106th Cong. 2d Sess. 113 (2000) (hereinafter *Shuster*)).

[5] *See* Appendix B.

## III. FINDINGS AND CONCLUSIONS

Three women testified before the ISC that Representative Kihuen made unwanted physical and verbal advances towards them between 2013 and 2017.[6] A Washington D.C. employee whose firm worked with Representative Kihuen's re-election campaign in 2017 ("D.C. Firm Employee") testified that Representative Kihuen made unwanted physical and verbal advances towards her including, among other things, touching her lower back and shoulders, repeatedly kissing her on the cheek, asking her personal questions such as did she live alone, commenting on her physique, and suggesting that he could help her career if she were willing to entertain his romantic interests.[7] A staffer on Representative Kihuen's 2016 congressional campaign ("Campaign Staffer") also testified that she was subjected to unwanted physical and verbal advances by Representative Kihuen during his 2016 congressional campaign, including, among other things, the touching of her thigh on two occasions, comments on how she looked, suggestions that Representative Kihuen would take her out if she did not work for him, a suggestion that she and Representative Kihuen should get a hotel room together, and questions regarding whether she would ever cheat on her boyfriend.[8] Finally, a female lobbyist who worked with Representative Kihuen in Nevada between 2013 and 2015 ("Nevada Lobbyist") testified before the ISC that Representative Kihuen made unwanted physical and verbal advances towards her including, among other things, sliding his hand under her dress and onto her thigh, grabbing her buttocks, messages asking her to come and sit on his lap, asking her what color her panties were, suggesting she would look good naked, and messages suggesting, through the use of emojis, that they make a sex tape together.[9]

Representative Kihuen generally denied the allegations of unwanted advances.[10] Despite Representative Kihuen's denials, each of the complainant's allegations were supported by documentary evidence and some of the alleged incidents were corroborated by third party witnesses.[11] Furthermore, at least two outside entities were made aware of Campaign Staffer and D.C. Firm Employee's allegations and approached Representative Kihuen, and his campaign, about his behavior in 2016 and 2017.[12]

Similarities in the allegations bolster the credibility of the complainants.[13] Two unrelated women, Campaign Staffer and Nevada Lobbyist, both testified that Representative Kihuen touched their thighs while they were riding in a car with him.[14] Two unrelated women, Campaign Staffer and a partner at the D.C. firm, both testified that Representative Kihuen asked them if they have ever or

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[6] *See generally* ISC Report.
[7] *Id.* at 3–9.
[8] *Id.* at 9–15.
[9] *Id.* at 15–20.
[10] Some of the allegations were outside the Committee's jurisdiction. While the Committee cannot make a finding of a violation on the basis of conduct outside of its jurisdiction, the Committee can consider all relevant evidence. Representative Kihuen's denials made it particularly important to consider the allegations outside the Committee's jurisdiction.
[11] ISC Report at 3–20.
[12] *Id.* Representative Kihuen responded to the discussion regarding his behavior towards employees at the D.C. Firm by asking the D.C. Firm Partner confronting him if she would ever cheat on her husband. *Id.* at 8–9.
[13] *Id.* at 3–15.
[14] *Id.*

would ever cheat on their boyfriend or husband.[15] Two unrelated women, D.C. Firm Employee and Nevada Lobbyist, testified and/or produced evidence that Representative Kihuen spoke to them about their career or career advancement in the course of hitting on them.[16] Finally, two unrelated women, Campaign Staffer and Nevada Lobbyist, both testified that Representative Kihuen grabbed the back of their thigh or their buttocks while they were alone in an office with him.[17]

The Committee has accepted the ISC's findings that "Representative Kihuen's complainants [are] credible based on their testimony and accompanying supporting evidence."[18] On November 15, 2018, the Committee voted to adopt the ISC's Findings and Conclusions and to release this public Report finding that Representative Kihuen violated clauses 1 and 2 of the Code of Official Conduct by making persistent and unwanted advances toward women who were required to interact with him as part of their professional responsibilities.

House Rule XXIII, clause 1 states that "[a] Member . . . of the House shall behave at all times in a manner that shall reflect creditably on the House," and clause 2 states that "[a] Member . . . shall adhere to the spirit and the letter of the Rules of the House." The Committee found that Representative Kihuen violated clause 1 by failing to behave in a manner that reflected creditably on the House, and violated clause 2 by violating the spirit of sexual harassment laws.[19]

The Committee found that, while serving as a Member of Congress, Representative Kihuen engaged in unwanted physical contact by repeatedly kissing D.C. Firm Employee's cheek and touching her shoulders and lower back, and engaged in unwanted verbal advances by commenting on D.C. Firm Employee's physique, commenting on her appearance, inquiring about her relationship status, asking D.C. Firm Employee if she lived alone, commenting that he lived alone, and insinuating that he would help D.C. Firm Employee with her career in exchange for a romantic relationship.[20] The Committee also found that Representative Kihuen behaved inappropriately when inquiring whether a partner at the D.C. Firm would cheat on her spouse during a conversation about Representative Kihuen's behavior towards women.[21] The Committee agreed with the ISC that the aforementioned behavior by Representative Kihuen violated clause 1 and clause 2 of the Code of Official Conduct.[22]

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[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] *Id.* at 25.
[19] *Id.* at 23–25; 29–31 (providing a detailed analysis of prevailing sexual harassment laws and their applicability to Representative Kihuen's actions in the instant matter).
[20] *Id.* at 29–30.
[21] *Id.*
[22] Representative Kihuen, through counsel, argues that the ISC, and by extension the Committee, "does not have authority to find that the Congressman actually violated the Code of Official Conduct without adopting a Statement of Alleged Violation." This is incorrect. Committee Rule 19(f) states that "[u]pon completion of the inquiry, an investigative subcommittee, by a majority vote of its members, *may* adopt a Statement of Alleged Violations if it determines that there is substantial reasons to believe that a violation of the Code of Official Conduct . . . has occurred." (emphasis added). Rule 19(f) leaves the decision whether to issue a Statement of Alleged Violation ("SAV"), and whether to seek harsher sanctions such as expulsion from the House, within the discretion of the ISC. Committee Rule 19(g) specifically requires an ISC to issue a report to the Committee with a summary of its findings and any appropriate recommendation if it does not adopt an SAV, and the ISC followed those procedural steps. The ISC

Likewise, the Committee found that Representative Kihuen violated clauses 1 and 2 of the Code of Official Conduct by making unwanted physical and verbal advances towards Campaign Staffer. During his 2016 campaign for election to the House, Representative Kihuen made unwanted advances towards Campaign Staffer by placing his hand on her thigh while the two of them were driving back from a meeting, by grabbing the back of her thigh as she stood up to check his computer during call time, by telling her "you look really good," and "I would take you out if you didn't work for me," by suggesting that the two of them should get a room as they arrived at a hotel for a meeting, and by asking her if she ever cheated on her boyfriend.[23] While the ISC chose not to "address whether any of Representative Kihuen's behavior prior to being sworn in as a Member of the House falls within the ISC's jurisdiction," the Committee has repeatedly noted it has jurisdiction over "misconduct relating to a successful campaign for election to the House,"[24] and Representative Kihuen's behavior towards Campaign Staffer, especially when coupled with his conduct as a sitting Member of the House, warrants reproval.

The Committee has found similar conduct, *i.e.* unwanted advances towards an individual not employed by the Member, to be a violation of clause 1.[25] As the Committee has previously stated, "[c]lause 1 is the most comprehensive provision of the Code and was adopted, in part, so that the Committee, in applying the Code, would retain "the ability to deal with any given act or accumulation of acts which, in the judgment of the committee, are severe enough to reflect discredit on the Congress."[26] While the ISC could have sought harsher sanctions for Representative Kihuen's violations, the ISC recommended and the Committee found that reproval is an appropriate sanction for the instant violations.[27]

Finally, the Committee reiterates an important point made in the ISC's Report. "While Members are free to pursue romantic and intimate relationships outside of the House, there is an inherent

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properly exercised its discretion and chose not to issue a SAV, or seek harsher sanctions for Representative Kihuen's conduct, but chose the same procedural steps utilized by other ISCs in the past. *See Whitfield*; Comm. on Ethics, *In the Matter of Allegations Relating to Representative Don Young,* H. Rep. 113–487, 113th Cong. 2d Sess. (2014). Indeed, the Committee regularly finds Members to be in violation of the Code of Conduct without even impaneling an ISC, which is a necessary prerequisite to adopting an SAV. *See* Comm. on Ethics, *In the Matter of Allegations Relating to Representative Luis V. Gutiérrez,* H. Rep. 115–617, 115th Cong. 2d Sess. (2018); Comm. on Ethics, *In the Matter of Allegations Relating to Representative Bobby L. Rush,* H. Rep. 115–618, 115th Cong. 2d Sess. (2018); Comm. on Ethics, *In the Matter of Allegations Relating to Representative David McKinley,* H. Rep. 114–795, 114th Cong. 2d Sess. (2016).

[23] ISC Report at 10–11.

[24] *Id.* at 22–23; House Comm. on Standards of Official Conduct, *In the Matter of Representative Jay C. Kim,* H. Rep. 105–797, 105th Cong. 2d Sess. (1998); House Comm. on Standards of Official Conduct, *In the Matter of Representative Earl F. Hilliard,* H. Rep. 107–130, 107th Cong. 1st Sess. (2001) (hereinafter *Hilliard*); Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative Michael Grimm (Nov. 26, 2012).

[25] House Comm. on Standards of Official Conduct, *In the Matter of Representative Gus Savage,* H. Rep. 101–397, 101st Cong. 2d Sess. 14 (1990) (finding a violation of then-Rule XLIII, clause 1, which utilized the same language now found at Rule XXIII, clause 1, based on unwanted sexual advances directed towards a Peace Corp volunteer who was not an employee of the House). Representative Kihuen seeks to distinguish the matter of Representative Gus Savage by arguing that the Committee did not find that Representative Savage violated a House Rule but instead found that his conduct was "contrary to the standard of conduct expressed" in the House Rules. Representative Kihuen's parsing of language is nonsensical and does not restrict the ISC or the Committee's authority to find Representative Kihuen in violation of applicable House Rules.

[26] *Shuster* at 9; *Hilliard* at 12.

[27] *See* House Rule XI, clause 3(a)(2) (establishing the Committee's investigative authority); *Shuster* at 113 (explaining that reproval by the Committee is "intended to be a clear public statement of rebuke of a Member's conduct issued by a body of that Member's peers acting . . . on behalf of the House of Representatives.").

power imbalance when Members romantically pursue individuals who are required to interact with Members as part of their professional responsibilities."[28] While Representative Kihuen repeatedly downplayed his actions when speaking with the ISC, in his written response to the ISC's Report, he apologized to the complainants and acknowledged that his actions may have been perceived in ways other than what he intended.[29]

Service as an elected official involves power imbalances that Members must be careful not to exploit. Indeed, each of the complainants had potential career opportunities affected by their efforts to avoid continued advances by Representative Kihuen.[30] Representative Kihuen now appears to better understand the effects that a power imbalance can have and the Committee joins Representative Kihuen in his hope that the "ISC investigation will make other Members of Congress cognizant of possible unintended consequences of their actions and will improve the working environment for all who interact with Members, whether as employees or not."[31]

## IV. STATEMENT UNDER HOUSE RULE XIII, CLAUSE 3(c)

The Committee made no special oversight findings in this Report. No budget statement is submitted. No funding is authorized by any measure in this Report.

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[28] ISC Report at 30.

[29] *See* Appendix B. While Representative Kihuen apologized for his actions, he also argues that the ISC's Report gives "short shrift" to statements by D.C. Firm Employee that she had a "plan" to get Representative Khuen to resign and "blackmail" him. The ISC Report cites to testimony and evidence by D.C. Firm Employee, submitted voluntarily, that she used "poor" and "unfortunate" wording by telling some friends and co-workers that she had a "plan" to get Representative Kihuen to resign and by referring to her decision to speak out as "blackmail." See ISC Report at 8. D.C. Firm Employee explained that she was "frustrated" at Representative Kihuen's attempts to delegitimize the women speaking out against him, that she understands that her desire that Representative Kihuen resign was different than blackmail, and that she "had no intention of blackmailing him." *Id*. The ISC considered all the evidence, questioned D.C. Firm Employee extensively on the topic, and "found no evidence that D.C. Firm Employee's statements were anything more than an expression of her conflict about going public with allegations regarding Representative Kihuen's behavior towards her while he was a sitting Member of Congress." *Id*.

[30] *See* ISC Report at 7 (D.C. Firm Employee testifying regarding a decision to exclude her from a Las Vegas fundraiser in part because of Representative Kihuen's interest in her); *id*. at 14 (Campaign Staffer explaining that her decision to leave Representative Kihuen's campaign early, to avoid continued advances, may affect future employment opportunities); *id*. at 20 (Nevada Lobbyist explaining that she chose to forego social events that could have helped her professional development in part to avoid Representative Kihuen's advances).

[31] Appendix B.

# APPENDIX A

**115TH CONGRESS, 2ND SESSION**
**U.S. HOUSE OF REPRESENTATIVES**
**COMMITTEE ON ETHICS**

**IN THE MATTER OF ALLEGATIONS RELATING TO REPRESENTATIVE RUBEN KIHUEN**

**SEPTEMBER 26, 2018**

Mr. MARCHANT, from the Investigative Subcommittee, submitted the following

**REPORT**

To the Committee on Ethics

**INVESTIGATIVE SUBCOMMITEE**

Kenny Marchant, Texas
*Chairman*

Yvette D. Clarke, New York
*Ranking Member*

Jackie Walorski, Indiana

Brian Higgins, New York

**REPORT STAFF**

Thomas A. Rust, *Chief Counsel/Staff Director*
Brittney Pescatore, *Director of Investigations*

C. Ezekiel Ross, *Counsel*
Katherine L. Dacey, *Counsel*
Molly N. McCarty, *Investigator*
Mark Hamilton, *Investigative Clerk*

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**115TH CONGRESS, 2ND SESSION**
**U.S. HOUSE OF REPRESENTATIVES**
**COMMITTEE ON ETHICS**

**IN THE MATTER OF ALLEGATIONS RELATING TO REPRESENTATIVE RUBEN KIHUEN**

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**SEPTEMBER 26, 2018**

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**REPORT OF THE INVESTIGATIVE SUBCOMMITTEE**

## I. INTRODUCTION

On December 21, 2017, the Committee on Ethics (Committee), in accordance with House Rule XI, clause 3, and Committee Rules 10(a)(2) and 18, unanimously voted to establish an Investigative Subcommittee (ISC) to determine whether Representative Ruben Kihuen ("Representative Kihuen") engaged in conduct that constitutes sexual harassment, in violation of House Rules, law, regulations, or other standards of conduct. In December 2017, multiple news outlets published articles alleging that Representative Kihuen subjected multiple women, who were interacting with him as part of their professional responsibilities, to persistent and unwanted advances between 2013 and 2017. The ISC has concluded its investigation into the allegations, and summarized its conclusions in this Report. The ISC found Representative Kihuen violated the Code of Official Conduct by failing to behave in a manner that reflects creditably upon the House of Representatives and by failing to adhere to the spirit of the House Rule prohibiting sexual harassment. The ISC thus recommends that the Committee issue a Reproval to Representative Kihuen for the violations described herein.

Representative Kihuen is a single man who, by his own admission, has dated a significant number of women. The ISC found that Representative Kihuen's pursuit of women was relentless and, at times, extended to women who either worked directly for or indirectly with Representative Kihuen. Despite Representative Kihuen's testimony to the contrary, the ISC was presented with compelling evidence that Representative Kihuen made persistent and unwanted advances directed toward a D.C. firm employee working with Representative Kihuen while he was a Member of Congress, a campaign staffer who worked on Representative Kihuen's successful congressional campaign, and a lobbyist who worked with Representative Kihuen when he served as a Nevada State Senator. The ISC found that Representative Kihuen engaged in unwanted physical contact with each of the aforementioned women and that Representative Kihuen made verbal advances to each of them that ranged from inappropriate statements to overt sexual aggression. Some of Representative Kihuen's inappropriate conduct towards women occurred before Representative Kihuen was subject to the Committee's jurisdiction. The ISC found, however, that Representative Kihuen's improper behavior continued during his tenure as a Member of the House, and is therefore governed by the Code of Official Conduct. Accordingly, as discussed fully below, the

ISC found Representative Kihuen's actions while he was a Member of the House violated clause 1 and clause 2 of the Code of Official Conduct and recommends that the Committee reprove Representative Kihuen for those violations.

## II. PROCEDURAL HISTORY

The ISC had its first meeting on January 9, 2018, and immediately began to collect evidence and gather relevant information pursuant to Committee Rule 19. The ISC met a total of eleven times in the instant matter. The ISC issued voluntary requests for information to Representative Kihuen and six other individuals. In total, the ISC reviewed over 2,700 pages of materials and interviewed twelve witnesses, including multiple witnesses who have publicly raised allegations against Representative Kihuen, multiple corroborating witnesses, members of Representative Kihuen's campaign and congressional staffs, character witnesses proffered by Representative Kihuen, and Representative Kihuen himself. Representative Kihuen appeared voluntarily before the ISC and fully cooperated with the investigation.

The ISC carefully considered all of the evidence presented, including Representative Kihuen's submissions and oral remarks in resolving the matter. On September 26, 2018, the ISC unanimously voted to issue the following report to the Committee, pursuant to Committee Rule 19(g).

## III. HOUSE RULES, LAWS, REGULATIONS, AND OTHER STANDARDS OF CONDUCT

Sexual harassment and other forms of employment discrimination are prohibited in the House by both federal statute and House Rule. The Congressional Accountability Act (CAA),[1] prohibits discrimination based on sex, including sexual harassment, and also prohibits intimidation, reprisal, or other discrimination against a person for opposing sex discrimination. During the period under review, House Rule XXIII, clause 9, stated that "[a] Member . . . may not discharge and may not refuse to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the race, color, religion, sex (including marital or parental status), disability, age, or national origin of such individual." The Committee has long held that a Member who violates applicable sex discrimination and sexual harassment laws also violates clause 9.[2] On February 6, 2018, the House formally amended clause 9 to confirm that the prohibition includes "committing an act of sexual harassment against such an individual."[3]

Under federal law, "[u]nwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis

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[1] 2 U.S.C. §§ 1311 *et seq.*

[2] *House Ethics Manual* (2008) at 268-69 (hereinafter *Ethics Manual*) (*citing* House Comm. On Standards of Official Conduct, *In the Matter of Representative Jim Bates*, H. Rep. 101-293 101st Cong., 1st Sess. 8-10 (1989) (hereinafter *Bates*)).

[3] H.R. Res. 724, 115th Cong. (2018).

for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."[4]

Sexual harassment and other forms of sex discrimination also implicate House Rule XXIII, clauses 1 and 2, which state that ''[a] Member . . . of the House shall behave at all times in a manner that shall reflect creditably on the House,'' and ''shall adhere to the spirit and the letter of the Rules of the House.''

## IV. FACTS

In 2006, Representative Kihuen was elected to the Nevada State Assembly. Representative Kihuen served two terms as an Assemblyman for Nevada's 11th District before being elected to the Nevada State Senate in 2010. Representative Kihuen served as a Nevada State Senator from 2010 through 2016. On March 28, 2015, Representative Ruben Kihuen launched a campaign for Nevada's Fourth Congressional District seat. Representative Kihuen was successful in his candidacy and assumed office as a Member of the House of Representatives on January 3, 2017.

In December of 2017, news reports were published containing allegations that Representative Kihuen made unwanted advances towards at least four women: a Washington D.C. employee whose firm worked with Representative Kihuen's re-election campaign in 2017 ("D.C. Firm Employee"), a staffer on his 2016 congressional campaign ("Campaign Staffer"), a female lobbyist in Nevada between 2013 and 2015 ("Nevada Lobbyist"), and a front desk clerk who worked in Representative Kihuen's condo building in 2015 ("Front Desk Clerk").

### *A. D.C. Firm Employee*

On December 16, 2017, *The Nevada Independent* reported allegations made by D.C. Firm Employee that Representative Kihuen subjected her to unwanted advances in the fall of 2017. Representative Kihuen and his campaign began working with her employer, D.C. Firm, in January 2017.[5] Representative Kihuen spent an average of two to four hours per day working at D.C. Firm.[6] D.C. Firm Employee did not work directly with Representative Kihuen, but he was a client of her firm and one of her supervisors worked directly with him.[7]

Although they had been introduced to each other while working around the D.C. Firm office, D.C. Firm Employee first meaningfully interacted with Representative Kihuen when she encountered him at the elevator at D.C. Firm in or around October 2017.[8] According to D.C. Firm Employee, Representative Kihuen said hello and then asked her if she had a boyfriend, and when she said she did not, he told her that "a beautiful young girl like you, I can't believe you don't have

[4] 29 CFR § 1604.11(a) (1999); *Meritor Sav. Bank, FSB v. Vinson,* 477 U.S. 57, 65 (1986) (citing the quoted provision of the CFR and explaining that the quoted provision "describe[s] the kinds of workplace conduct that may be actionable under Title VII.").
[5] ISC First Interview of Representative Kihuen.
[6] *Id.*
[7] ISC Interview of D.C. Firm Employee; ISC First Interview of Representative Kihuen.
[8] ISC Interview of D.C. Firm Employee; ISC First Interview of Representative Kihuen.

a boyfriend."[9] Representative Kihuen admitted that he "probably" asked D.C. Firm Employee if she had a boyfriend.[10] D.C. Firm Employee shared her encounter with Representative Kihuen at the elevator with co-workers telling one that Representative Kihuen asked her a lot of personal questions, including whether she had a boyfriend.[11] According to her co-worker, D.C. Firm Employee described her interaction with Representative Kihuen as "creepy" and acknowledged the "uncomfortableness" of the situation.[12] D.C. Firm Employee told the ISC that the interaction left her "flustered and uncomfortable."[13]

On October 11, 2017, after their initial interaction at the elevator, D.C. Firm Employee ran into Representative Kihuen while leaving her office. According to D.C. Firm Employee, she mentioned her plan to bring back leftovers from the event she was attending, which Representative Kihuen apparently took as an offer to bring him lunch.[14] Several hours after that conversation, D.C. Firm Employee received an e-mail from Representative Kihuen at her work e-mail address, despite the fact that she did not work with Representative Kihuen directly and had never given him her e-mail address.[15] Representative Kihuen wrote at 1:08 p.m., "I hope this is your e-mail address. Just wanted to say thank you for offering to bring me lunch today. Not sure if I said thanks. You're so sweet. :)"[16] D.C. Firm Employee responded more than four hours later, "Any time :)," followed by her signature block, which contained her work landline and mobile phone numbers.[17] The next day, D.C. Firm Employee received a text message on her work mobile phone from Representative Kihuen, with smiley face emojis and the message "Btw…this is Ruben K. Very kind of you to [offer to] bring me lunch yesterday."[18] D.C. Firm Employee did not respond. Representative Kihuen recalled sending D.C. Firm Employee the e-mail to thank her for offering to bring him lunch and admitted that the D.C. Firm Employee did not give him her e-mail address, but he was able to figure it out based on her name and the general e-mail configuration used by her firm.[19] Representative Kihuen's e-mail to D.C. Firm Employee left her confused.[20]

On October 25, 2017, both D.C. Firm Employee and Representative Kihuen attended a karaoke-themed fundraiser for another Member of Congress represented by D.C. Firm.[21] D.C. Firm Employee testified that when Representative Kihuen arrived at the fundraiser he "immediately came up to me and put his arm around me, kissed me on the cheek, said Hi, greeted [others] from my firm . . . [a]nd he began to ask me very personal questions."[22] D.C. Firm Employee further testified:

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[9] ISC Interview of D.C. Firm Employee.
[10] ISC First Interview of Representative Kihuen.
[11] ISC Interview of D.C. Firm Co-Worker.
[12] *Id.*
[13] ISC Interview of D.C. Firm Employee.
[14] *Id.*
[15] *Id.*; Exhibit 1.
[16] Exhibit 1.
[17] *Id.*
[18] Exhibit 2.
[19] ISC First Interview of Representative Kihuen.
[20] ISC Interview of D.C. Firm Employee.
[21] *Id.*
[22] *Id.*

> He asked me where I lived and if I lived alone. He told me where he lives. He asked me how tall I am and if I played any sports in college and if I just graduated. He told me that I look athletic. He sort of looked me up and down and then commented on my physique. And then I told him that I run. And he offered to be my running buddy or my bodyguard if I – you know, I tried to brush it off by saying, you know, I run really early in the morning, you wouldn't – you wouldn't want to wake up that early. And he said, well, maybe you need a bodyguard if you're up that early, and offered to do that. He told me that I was one of the most beautiful girls that he had met in D.C., and he asked me again why I don't have a boyfriend. He asked me – I believe he said something like, what do you want to do? I know you can't want to do this forever. And then offered to help me after I told him that I've wanted to work on the Hill for a while.[23]

In his interview with the ISC, Representative Kihuen conceded that he asked D.C. Firm Employee if and where she worked out but denied: asking her if she lives alone, commenting on how athletic she was, or offering to be her bodyguard.[24] Representative Kihuen stated that he asked D.C. Firm Employee about her career goals but did not offer to help her with her career.[25] When asked whether he told D.C. Firm Employee that she was one of the most beautiful girls he'd seen in D.C., Representative Kihuen told the ISC that he did not recall.[26] Representative Kihuen characterized the conversation as a "very professional, getting-to-know-each-other type of conversation."[27]

D.C. Firm Employee explained that she thought many of Representative Kihuen's questions were inappropriate and that she interpreted his questions regarding her career aspirations to be suggestive of a "romantic interest" and an insinuation "that if I were to become close to him in that way, then he would help me with my career."[28]

D.C. Firm Employee also testified that she felt Representative Kihuen's physical interactions with her during the karaoke fundraiser were inappropriate.[29] She testified that "throughout the fundraiser, he kissed me several times on the cheek, and was generally very

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[23] *Id.*
[24] ISC First Interview of Representative Kihuen.
[25] *Id.* ("She asked me how I got to Congress. She asked me how things were going in Congress. . . . I asked her what, you know, what her goals were. I'm sure somebody doesn't want to be [in her low-level position] for the rest of their life. And so, out of respect for her and just to not make it about me, I asked her the questions, and she answered. But it was never with the intention of saying, hey, you know, if you do this for me, I'll give you a nice job or I'll help you find another job. . . . So I just think it's silly for her to – or for anyone to think that I was trying to offer a position in exchange for something else.").
[26] *Id.*
[27] *Id.* (Representative Kihuen emphasized that there was a "back and forth," and D.C. Firm Employee asked him questions about life in Congress and what he did for fun.).
[28] ISC Interview of D.C. Firm Employee. ("I had never worked directly with him, so he has no knowledge of the content of my work or, you know, any knowledge of my resume or, you know, he has no reason to want to help me besides what I interpreted as romantic interest.").
[29] *Id.*

touchy. And those cheek kisses sort of were accompanied by an arm around the waist."[30] Representative Kihuen denied touching D.C. Firm Employee in any way.[31]

Another co-worker and friend of D.C. Firm Employee ("D.C. Firm Co-Worker") attended the same karaoke fundraiser.[32] D.C. Firm Co-Worker told the ISC that she witnessed Representative Kihuen put his hand on D.C. Firm Employee's lower back and take her off to the side for a private conversation; she also recalled seeing Representative Kihuen's hand on D.C. Firm Employee's shoulders and lower back at various points in the evening.[33] D.C. Firm Co-Worker did not observe Representative Kihuen kiss D.C. Firm Employee's cheek and could not hear their conversation, but D.C. Firm Employee recounted the details of her conversation to D.C. Firm Co-Worker immediately after the event.[34] D.C. Firm Co-Worker told the ISC that she thought D.C. Firm Employee felt very uncomfortable about her interactions with Representative Kihuen.[35]

D.C. Firm Employee explained that, while she has interacted with a number of Members of Congress through her job, Representative Kihuen "acted in a particularly unique way that [she] had not experienced with any other Members," and that Representative Kihuen's actions made her "uncomfortable," "surprised," "dismayed," and concerned that the interactions "would delegitimize me and my career prospects."[36]

D.C. Firm Employee sent contemporaneous messages to co-workers and friends regarding Representative Kihuen's actions both before the fundraiser[37] and on the night of the karaoke-themed fundraiser.[38] D.C. Firm Employee also went to her supervisor at her firm ("D.C. Firm Partner") shortly after each incident occurred.[39] D.C. Firm Partner told the ISC that D.C. Firm Employee had told her that Representative Kihuen's behavior at the fundraiser made her feel uncomfortable.[40] According to D.C. Firm Employee, the principals at her firm "did not seem as troubled by it. They seemed to think that he was joking and encouraged me to pursue a relationship with him."[41] Indeed, according to D.C. Firm Employee, when she went to D.C. Firm Partner and explained what happened during her first conversation with Representative Kihuen on the elevator, D.C. Firm Partner responded "he's so hot, you should definitely sleep with him and tell me

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[30] *Id.* ("I understand, you know, a cheek kiss as a greeting once. I still probably would have felt uncomfortable if it had just been once in greeting. But since we were – it was throughout the duration of a conversation and we weren't greeting each other at those points, it was uncomfortable.").
[31] ISC First Interview of Representative Kihuen.
[32] ISC Interview of D.C. Firm Co-Worker.
[33] *Id.*
[34] *Id.* (D.C. Firm Employee's co-worker's account of what D.C. Firm Employee told her the evening of October 25, 2017, was consistent with D.C. Firm Employee's testimony to the ISC).
[35] *Id.*
[36] ISC Interview of D.C. Firm Employee.
[37] Exhibit 3; ISC Interview of D.C. Firm Employee.
[38] Exhibit 4.
[39] ISC Interview of D.C. Firm Employee; ISC Interview of D.C. Firm Partner.
[40] ISC Interview of D.C. Firm Partner.
[41] ISC Interview of D.C. Firm Employee.

everything."[42] D.C. Firm Employee was relatively new to the firm at that time.[43] D.C. Firm Partner denied telling D.C. Firm Employee that she should sleep with Representative Kihuen.[44]

D.C. Firm Employee explained to the ISC that Representative Kihuen's interest in her was one of multiple factors that resulted in a missed opportunity to attend a fundraiser in Las Vegas that she had helped organize. D.C. Firm Employee testified that "it was a multifaceted decision" and that her firm "did not think that it would be safe for [D.C. Firm Employee] to be with that many older men in sort of a Vegas-weekend capacity."[45] D.C. Firm Employee testified that an "element" of her firm's conversations about her attendance at the Las Vegas event was concern about Representative Kihuen's "conduct with women and his behavior towards women more broadly," as well as the firm's awareness of Representative Kihuen's "specific interest" in her.[46] D.C. Firm Partner denied that D.C. Firm Employee was removed from the Las Vegas trip because of Representative Kihuen, and explained that no staff were set to attend the trip other than D.C. Firm Partner.[47]

D.C. Firm Employee explained that the power imbalance between her and Representative Kihuen limited her ability to publicly protest against Representative Kihuen's advances. She noted to the ISC that her firm relied on his business, and that he was significantly more senior in his career than she was, and she explained, "I did not feel that it would be wise for me as – you know, as a 24-year-old to upset or anger someone in that position."[48] A similar power imbalance was referenced by D.C. Firm Co-Worker when testifying about her desire to intervene during the karaoke-themed fundraiser but her inability to do so.[49] D.C. Firm Employee said that she "was very worried about negative implications speaking out would have on [her] career, especially as I hoped to work on the Hill," but that she chose to speak out about what she perceived as inappropriate behavior by Representative Kihuen after reading that he had denied Campaign Staffer's allegations.[50]

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[42] *Id.* ("[S]he was very excited about the prospect that Congressman Kihuen was interested in me romantically."); ISC Interview of D.C. Firm Co-Worker (testifying that D.C. Firm Employee told her that supervisors at the firm had joked around after learning of Representative Kihuen's conduct and the supervisors had suggested to D.C. Firm Employee that she should have sex with Representative Kihuen).
[43] ISC Interview of D.C. Firm Employee.
[44] ISC Interview of D.C. Firm Partner.
[45] ISC Interview of D.C. Firm Employee.
[46] *Id.*
[47] ISC Interview of D.C. Firm Partner.
[48] ISC Interview of D.C. Firm Employee (quoting D.C. Firm Employee as stating in a news article "I'm not in a place to yell at a Member of Congress and say 'stop touching me' because I just started my career, she said. He's a Member of Congress and a client of my firm and some of my friends were, like, why didn't you just shut him down? Tell him to stop talking to you? And it's because there's such a power dynamic that makes it so you can't really.").
[49] ISC Interview of D.C. Firm Co-Worker ("I knew that [D.C. Firm Employee] was already feeling really uncomfortable about [Representative Kihuen] because of the messages and the encounter in the elevator. And, you know, like me and [D.C. Firm Employee] spent a lot of time talking about him and how he was making her feel, and I could tell that when he walked over to us she was scared. And, you know, I don't really – I guess in that moment I didn't feel like I had much say to say like, you know, leave her alone, you make her feel very uncomfortable, you know? I didn't feel like I had that power at that time, but I at least did have the power to, you know, be close to her and not make her feel so, you know, alone there.").
[50] ISC Interview of D.C. Firm Employee.

D.C. Firm Employee acknowledged that some of the other recently reported allegations of sexual harassment by public figures were more severe than hers and made her question whether speaking out about Representative Kihuen's behavior towards her was worth the potential consequences she may face.[51] D.C. Firm employee also testified that, when speaking with friends about how she planned to handle speaking out about Representative Kihuen's behavior, she used "poor" and "unfortunate" wording by telling some friends and co-workers that she had a "plan" to get Representative Kihuen to resign[52] and by referring to her decision to speak out to others as "blackmail."[53] Despite D.C. Firm Employee's "unfortunate" language, the ISC found no evidence that D.C. Firm Employee's statements were anything more than an expression of her conflict about going public with allegations regarding Representative Kihuen's behavior towards her while he was a sitting Member of Congress.

D.C. Firm Partner testified that she spoke to Representative Kihuen about his behavior towards women before the first news report regarding allegations of sexual misconduct involving Representative Kihuen was published.[54] According to D.C. Firm Partner, she spoke with Representative Kihuen "[b]ecause there had been a lot of sexual harassment allegations going on, and I wanted to let him know he needed to be careful and that I had heard that he had been communicating with people at my office and he should knock that off."[55] D.C. Firm Partner said that Representative Kihuen told her that his actions were "innocent" and that "he was just being friendly."[56] According to D.C. Firm Partner, during that conversation Representative Kihuen asked her if she would ever cheat on her husband.[57] Representative Kihuen recalled having a conversation with D.C. Firm Partner around this time but asserted that it was not about any of D.C. Firm's staff but was instead a general warning not to be perceived as a "ladies' man."[58] When asked whether he asked D.C. Firm Partner if she would ever cheat on her husband during the

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[51] *Id.*

[52] *Id.* ("Q: Okay. And why did you refer to it as a strategy to get Representative Kihuen to resign? A: That was a poor choice of words. I was really frustrated at his response to all the stories that came out delegitimizing the women and saying that he didn't do anything, when my understanding was that this was a pattern of behavior. So I certainly should not have phrased it that way, but that was just me being frustrated and wanting to do something. Q: Did you want Representative Kihuen to resign? A: I did. Q: And why? A: I felt that he did not live up to the idea of what a Member of Congress should be.").

[53] *Id.* ("Q. . . . [W]hy did you say you were trying to blackmail a Member of Congress? A: That is a very unfortunate choice of words that I should not have used. It was a texting shorthand for what I thought I wanted to do, which was tell my story to Nancy Pelosi's office and then let them put pressure on him internally to resign. They're not the same thing. I had no intention of blackmailing him. It was easier to type that word than to describe the whole sequence. Q: And did you talk to Nancy Pelosi's office? A: I did not.").

[54] ISC Interview of D.C. Firm Partner; ISC Interview of Former Chief of Staff ("At one point a partner at the firm had said to me that she had spoken to Ruben about ensuring he didn't come across as too friendly with the junior staff.").

[55] ISC Interview of D.C. Firm Partner ("I told him that he needed to knock off communicating with my employees that don't work with him.").

[56] *Id.*

[57] *Id.* ("Q: Did Representative Kihuen ask you if you would be unfaithful to your husband during that conversation? A: You know what; I think, yes, he did. Q: And what exactly did Representative Kihuen say? A: He – the conversation divulged into, you know, it's hard being in a long-term relationship long distance and said: Well, you've been married a long time. Would you ever be unfaithful to your husband? Q: How did you interpret that statement by Representative Kihuen? A: I didn't take it as an advance or an – or as trying to hit on me. Q: Did you feel that the statement was appropriate in the context of the conversation? A: No.").

[58] ISC First Interview of Representative Kihuen.

conversation, Representative Kihuen said he did not recall.[59] D.C. Firm ultimately terminated its contract with Representative Kihuen when news reports regarding Representative Kihuen's behavior were published.[60]

Representative Kihuen's 2016 Campaign Manager ("Campaign Manager") also confronted him in December 2017 after hearing that Representative Kihuen had been "inappropriately texting" a D.C. Firm employee.[61] Representative Kihuen denied doing so to Campaign Manager.[62]

Representative Kihuen told the ISC that "[w]ith respect to [D.C. Firm Employee], I had a single encounter of a social nature with her at a fundraising event for another Member of Congress that the consulting firm itself had requested me to attend. While I exchanged in social conversation with her, at no time did I make any inappropriate remark or suggest that I would hurt her or her career or have any physical contact."[63] Representative Kihuen claimed that his interactions were "very professional" and at the time he interacted with D.C. Firm Employee he "was looking to make friends, people to go run with, people to go to the gym with, you know, people to socialize with."[64] Representative Kihuen stated that he did not flirt or show a romantic or sexual interest in D.C. Firm Employee.[65] Representative Kihuen further testified that D.C. Firm Employee showed an initial interest in him by "liking" photos he posted on social media.[66] D.C. Firm Employee explained, however, that D.C. Firm regularly monitored the social media activities of D.C. Firm's clients and that she and other colleagues were encouraged to follow the Instagram accounts of D.C. Firm clients, including Representative Kihuen.[67]

*B. Representative Kihuen's Campaign Staffer*

The first reported allegations regarding inappropriate and unwanted advances by Representative Kihuen were raised by one of Representative Kihuen's former campaign staffers. Campaign Staffer responded to a posting for an opening on Representative Kihuen's campaign in November 2015.[68] She interviewed for a position on the campaign with Representative Kihuen and his Campaign Manager, was hired, and began working as a paid staffer on his congressional

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[59] *Id.*
[60] ISC Interview of D.C. Firm Partner.
[61] ISC Interview of Campaign Manager.
[62] *Id.*
[63] ISC First Interview of Representative Kihuen.
[64] *Id.*
[65] *Id.*
[66] *Id.*
[67] D.C. Firm Employee explained that monitoring the social media of her firm's clients was a regular part of her job duties and was not intended to express a romantic interest or flirt with Representative Kihuen. *See also* ISC First Interview of Representative Kihuen (explaining that D.C. Firm Employee liked his Instagram photos "before the [first] interaction" near the elevator.). The ISC also received testimony that D.C. Firm Employee previously had a picture of Representative Kihuen on her desk. *See* ISC Interview of D.C. Firm Partner. D.C. Firm Employee explained to ISC staff that her colleagues downloaded a picture of Representative Kihuen and placed it on another colleague's desk, in whom Representative Kihuen allegedly expressed an interest. When that colleague left the firm, the picture was placed on D.C. Firm Employee's desk as a continuation of the joke where it sat for a few weeks. The picture was removed prior to the October 2017 fundraiser.
[68] ISC Interview of Campaign Staffer.

campaign in December 2015.[69] According to Campaign Staffer, her first two months were uneventful but Representative Kihuen's behavior began to change in February 2016.[70]

On the evening of February 6, 2016, Campaign Staffer and Representative Kihuen attended a fundraiser together. According to Campaign Staffer, she and Representative Kihuen were walking back to their respective cars after leaving the fundraiser, when Representative Kihuen said to Campaign Staffer, "you look really good," and "I'd like – I would take you out if you didn't work for me."[71] Campaign Staffer and Representative Kihuen were the only two individuals from the campaign attending the event that evening. According to Campaign Staffer, she was too stunned to respond to Representative Kihuen's comments and simply got into her car and drove away.[72] Campaign Staffer had previously attended campaign events in December 2015 and January 2016 alone with Representative Kihuen and Representative Kihuen did not say or do anything that she felt was inappropriate or that made her uncomfortable during those events.[73]

Representative Kihuen recalled walking Campaign Staffer to her car one night after an event but explained to the ISC that he was "[b]eing a gentleman" because it was dark and she had a big box that he offered to carry for her.[74] Representative Kihuen testified that he did not comment on how Campaign Staffer looked and that he did not recall whether he told Campaign Staffer that he would take her out if she didn't work for him.[75]

On February 19, 2016, Representative Kihuen and Campaign Staffer attended a meeting in Las Vegas at the Aria Hotel.[76] Attending that meeting was part of Campaign Staffer's job duties and responsibilities.[77] According to Campaign Staffer, she and Representative Kihuen drove together to the meeting, during which Representative Kihuen discussed a woman he said he found unattractive, and then added, 'I wouldn't have that problem with you.'"[78] Campaign Staffer said she did not respond to Representative Kihuen's statements, and he then asked her "what do you think of Latino guys?"[79] Campaign Staffer responded that she didn't "date people based on their ethnicity" but that she dated "people because I like them."[80] When Campaign Staffer and Representative Kihuen arrived at the hotel, Representative Kihuen turned to Campaign Staffer and said "we should get a room," as the two of them walked to the lobby elevators.[81] Campaign Staffer explained that "based on what he said in the car, I kind of understood the context of that. And I just said, no. And he started laughing at me."[82]

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[69] *Id.*
[70] *Id.*
[71] *Id.*
[72] *Id.*
[73] *Id.*
[74] ISC First Interview of Representative Kihuen.
[75] *Id.* ("Q: Did you tell [Campaign Staffer] that you'd like to take her out if she didn't work for you? A: I don't recall. Q: Is that something you would recall, if you told [Campaign Staffer] that you'd like to take her out if she didn't work for you? A: No.").
[76] ISC Interview of Campaign Staffer.
[77] ISC Interview of Campaign Manager.
[78] ISC Interview of Campaign Staffer.
[79] *Id.*
[80] *Id.*
[81] *Id.*
[82] *Id.*

According to Campaign Staffer, after the meeting when they were driving back to the office in his car, Representative Kihuen put his hand on her thigh, and asked her if she ever cheated on her boyfriend.[83] Campaign Staffer described the physical contact as Representative Kihuen placing his hand firmly on her thigh for about 30 seconds until she moved her leg away.[84] Campaign Staffer testified that when she questioned Representative Kihuen as to why he would ask her if she ever cheated on her boyfriend, he responded by laughing at her again.[85]

Representative Kihuen recalled that Campaign Staffer accompanied him to the February 19, 2016, fundraising meeting and that no other staffers from his campaign were present, but did not recall whether he drove to the meeting or whether Campaign Staffer rode with him to the meeting.[86] Representative Kihuen explained that he talked to Campaign Staffer about her boyfriend in an attempt to get to know her and build a better friendship, but did not recall whether he asked Campaign Staffer if she ever cheated on her boyfriend.[87] Representative Kihuen denied suggesting that he and Campaign Staffer get a room and denied touching Campaign Staffer in any way.[88]

Campaign Staffer also testified that Representative Kihuen touched her thigh a second time, in March 2016, during time scheduled for fundraising calls, known as "call time." According to Campaign Staffer, a second campaign staffer who generally worked with Representative Kihuen during call time ("Second Campaign Staffer") was away from the office for a short time and Campaign Staffer and Representative Kihuen were alone.[89] Representative Kihuen told Campaign Staffer that "something with his computer wasn't working" and when she "stood up to get a better look at the computer, [] he grabbed the back of [her] thigh."[90] Campaign Staffer asked Representative Kihuen what he was doing and Representative Kihuen "put his hand down."[91] Campaign Staffer quickly left the room a few minutes later when Second Campaign Staffer returned to the office.[92] Representative Kihuen denied ever being alone with Campaign Staffer during call time, denied touching the back of Campaign Staffer's thigh, and denied ever touching Campaign Staffer in any way during call time.[93]

Campaign Staffer testified before the ISC that Representative Kihuen's actions made her "feel disrespected, like he wasn't taking me seriously as a member of his staff" and like "[h]e wasn't respecting that I was already in a committed relationship."[94]

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[83] *Id.*
[84] *Id.* ("[H]is hand was pretty firm, like it was hard for me to wiggle away.").
[85] *Id.*
[86] *Id.*
[87] *Id.* ("Q: Did you ever ask [Campaign Staffer] if she ever cheated on her boyfriend? A: No. I don't recall. Q: Is that something that you would recall, if you asked her if she cheated on her boyfriend? A: No.").
[88] *Id.*
[89] ISC Interview of Campaign Staffer.
[90] *Id.*
[91] *Id.*
[92] *Id.*
[93] ISC First Interview of Representative Kihuen.
[94] ISC Interview of Campaign Staffer.

Campaign Staffer did not report Representative Kihuen's behavior to anyone on the campaign at the time it occurred.[95] Campaign Staffer did, however, send messages to friends, former co-workers, and her boyfriend regarding Representative Kihuen's behavior within days of when the aforementioned incidents are alleged to have occurred.[96] Campaign Staffer informed her family and friends that Representative Kihuen said "randomly creepy things to me," that he "[p]ut his hand on my thigh a couple times," that he "[a]sked me weird questions [] like if I had ever cheated on my boyfriend," and that he "[s]aid a couple of times he would take me out if I didn't work for him."[97]

Campaign Staffer also testified that, around February 2016, Representative Kihuen began talking about his sex and dating life in the office in front of the staff.[98] Campaign Staffer testified that Representative Kihuen discussed a "Sports Illustrated model, and he basically said they slept together, and she was upset about it because he didn't want a serious relationship," and talked about how one of their primary opponents "slept with a ton of people."[99]

Representative Kihuen denied talking about his sex life with his campaign staff[100] but another individual working on Representative Kihuen's campaign at that time corroborated Campaign Staffer's testimony. Second Campaign Staffer told the ISC that Representative Kihuen "would often make jokes about sex or women in some form or another, that were also sexual" in the campaign office.[101] Second Campaign Staffer explained that Representative Kihuen "usually just liked telling stories or commenting on that somebody looked very attractive. Like she was hot or she had a nice ass or whatever."[102] Second Campaign Staffer confirmed Campaign Staffer's testimony that Representative Kihuen talked to his campaign staff about a Sports Illustrated model that he slept with and that Representative Kihuen made disparaging remarks about a primary opponent.[103] According to Second Campaign Staffer, Representative Kihuen said his opponent had slept with many people and called her a "slut" in front of the campaign staff.[104] Second Campaign Staffer also told the ISC that Representative Kihuen joked that "Black women are good in bed."[105] According to Second Campaign Staffer, who spent several hours a week with Representative Kihuen, conversing with Representative Kihuen in the campaign office was like "interacting with [] a 14-year-old" and it was common for Representative Kihuen to be "ogling at someone."[106]

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[95] *Id.* ("I didn't feel close enough with anyone on staff to tell them.").
[96] *Id.*
[97] Exhibit 5; ISC Interview of Campaign Staffer.
[98] ISC Interview of Campaign Staffer.
[99] *Id.*
[100] ISC First Interview of Representative Kihuen.
[101] ISC Interview of Second Campaign Staffer ("Ruben certainly made jokes that were beyond inappropriate if other women were in the room."); ISC Interview of Campaign Staffer ("Ruben didn't really do this within the first 2 months that I was there, but – like starting in February, he would start talking about women he dated or women he slept with in the office in front of everybody.").
[102] *Id.*
[103] *Id.*
[104] *Id.*
[105] ISC Interview of Second Campaign Staffer.
[106] *Id.*; *compare* ISC Interview of Campaign Manager ("Q: Did you ever hear Representative Kihuen make any jokes of a sexual nature? A: I did not. Q: Did you ever hear Representative Kihuen make any comments of a sexual

In contrast, Representative Kihuen denied ever talking to his campaign staffers about his sex life, denied ever making any sexually explicit or related jokes around his staffers, denied telling any campaign staffers "that Black women are good in bed," and denied ever talking to his campaign staffers about a Sports Illustrated model that he may have slept with.[107] Representative Kihuen testified that he discussed the previous relationships a primary opponent had been involved in as it was an issue that was brought to him by his staff, but denied ever calling her a "slut."[108] Representative Kihuen also denied ever talking to his campaign staff about how attractive a particular woman was, and denied ever commenting on a woman's posterior in front of campaign staffers.[109]

On April 5, 2016, Campaign Staffer submitted a letter of resignation.[110] She told Campaign Manager, and others on the campaign, that her mother was sick and that she found another position closer to her parents, both of which were true statements.[111] Campaign Staffer ultimately left the campaign on April 7, 2016.[112]

Representative Kihuen suggested to the ISC that Campaign Staffer may have been disgruntled and left her position because she was not very good at her job. Campaign Manager described Campaign Staffer's work as "acceptable but [] not great."[113] Campaign Manager testified, however, that he was surprised when Campaign Staffer resigned, and that despite not being "100 percent happy" with her work, neither he nor any other supervisor ever spoke with her about her job performance or suggested that she should step down from her position with the campaign.[114] While Campaign Staffer did not discuss her job performance in detail with the ISC, she explained that after Representative Kihuen began behaving inappropriately towards her, she no longer felt "motivated to help him win" his congressional election.[115]

Campaign Staffer told the ISC that she resigned because she felt uncomfortable around Representative Kihuen, explaining, "I understood, after the incident on February 19, that I don't feel comfortable being anywhere alone with him. And even though there weren't too many times on the campaign where I was required to be alone with him, I knew it would hinder me in my job if I can't be alone with the candidate."[116] Campaign Staffer waited until she had another position

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nature? A: I did not. Q: Did you ever hear reports by any campaign staffers that Representative Kihuen may have made jokes or comments of a sexual nature? A: I did not.").

[107] ISC First Interview of Representative Kihuen.

[108] *Id.*

[109] ISC First Interview of Representative Kihuen.

[110] Exhibit 6; ISC Interview of Campaign Staffer.

[111] ISC Interview of Campaign Staffer.

[112] *Id.*

[113] ISC Interview of Campaign Manager.

[114] *Id.*; ISC Interview of Campaign Staffer; ISC First Interview of Representative Kihuen; ISC Interview of Campaign Consultant.

[115] ISC Interview of Campaign Staffer ("[I]t didn't sit well in my conscience to tell donors they should give to this campaign when – well, from my perspective, if I was a donor and I knew [] someone acted like that, I would not want to support their campaign. So I didn't think it was fair to donors to, you know, take their money to continually ask them for their money when this was what I was experiencing.").

[116] *Id.*

lined up before leaving Representative Kihuen's campaign. She explained to the ISC why she did not leave until then:

> I didn't want to have to explain to any potential employers that I was leaving my job because I felt the candidate had sexually harassed me. That just seemed like a really uncomfortable conversation to have with a potential future employer. But I was also worried that quitting a campaign before it ended would kind of look bad, like it would look like I wasn't willing to work hard enough, or that I wasn't really committed to my position. And I think, especially because with campaigns, you're usually working 7 days a week, you might be in the office for over 12 hours, I would think people who are hiring for campaigns would be really concerned about someone who seemed kind of flaky, or if they would quit if they didn't like something.[117]

A Democratic Congressional Campaign Committee (DCCC) employee would check-in with Campaign Staffer every few weeks regarding how much money Representative Kihuen's campaign was raising while she was working for the campaign.[118] On April 8, 2016, Campaign Staffer was contacted by the DCCC employee and asked why she left Representative Kihuen's campaign.[119] According to Campaign Staffer, she responded that "the candidate has been making me really uncomfortable, and I feel I can't do my job if I feel uncomfortable being in the same room with the candidate."[120] Campaign Staffer said she went on to tell the DCCC employee that Representative Kihuen "would do things like comment on my appearance, or make suggestions that I should go on a date with him or have sex with him, that he touched my thigh a couple times."[121] According to Campaign Staffer, the DCCC employee indicated that he would speak to someone else at the DCCC about the situation and asked her to contact him if she needed anything else.[122]

Within two to three weeks of Campaign Staffer's departure, Campaign Manager was contacted by the DCCC and informed that Campaign Staffer left the campaign because Representative Kihuen made her feel uncomfortable in the call time room.[123] Campaign Manager said he confronted Representative Kihuen about the allegations and Representative Kihuen denied ever doing anything to make Campaign Staffer uncomfortable, and told Campaign Manager that he didn't find Campaign Staffer attractive.[124]

Representative Kihuen told the ISC that "[i]f I ever acted in a way that made [Campaign Staffer] feel uncomfortable, I deeply regret it, but I was certainly unaware of it at the time. At no time while she worked for any campaign was any of the issue at nature brought to my attention."[125]

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[117] *Id.*
[118] *Id.*
[119] *Id.*
[120] *Id.*
[121] *Id.*
[122] *Id.* ISC staff attempted to reach the DCCC employee for confirmation of Campaign Staffer's account, but he ignored repeated phone calls and e-mails.
[123] ISC Interview of Campaign Manager.
[124] *Id.*; ISC First Interview of Representative Kihuen.
[125] ISC First Interview of Representative Kihuen.

Representative Kihuen stated that he never flirted with Campaign Staffer, and never expressed a romantic or sexual interest in her.[126] Representative Kihuen stated that Campaign Staffer was simply "saying something that was not true."[127]

Campaign Manager told the ISC he believes Campaign Staffer's allegations, explaining that "when you put it all together it was too compelling a case to not believe."[128] According to Campaign Manager, when Representative Kihuen was confronted with the allegations reported by the press, he "threatened to go after" Campaign Staffer and stated that he was "going [to] destroy her."[129] Second Campaign Staffer, who spent several hours a day with Representative Kihuen on a daily basis during the campaign,[130] also testified that he believes Campaign Staffer's allegations, stating "not only do I believe her, the things she's said – the words that she gave quotes of just sound so much like Ruben I can hear them coming out of his mouth. I 100 percent believe her."[131]

### C. *Nevada Lobbyist*

Allegations of persistent unwanted advances were also raised by a woman who worked as a Nevada lobbyist during Representative Kihuen's tenure as a Nevada State Senator. Representative Kihuen met Nevada Lobbyist in February 2013 during the 2013 Nevada Legislative Session.[132] Between 2013 and 2015 Representative Kihuen and Nevada Lobbyist communicated in person, via Facebook and via text message.[133] Nevada Lobbyist's job duties and responsibilities required her to interact with Representative Kihuen during his time with the Nevada Legislature.[134]

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[126] *Id.*
[127] *Id.*
[128] ISC Interview of Campaign Manager ("I mean, again, at this point I had reviewed all this. I had gone through it all with Ruben. I felt pretty confident that he did this. There was no question in my mind that this had all happened, it was true."). Representative Kihuen told the ISC that Campaign Manager told him two hours before the news story was published that he knew Representative Kihuen did *not* do what Campaign Staffer alleged, and suggested that Campaign Manager was saying otherwise to "cover" for the DCCC. ISC First Interview of Representative Kihuen.
[129] ISC Interview of Campaign Manager ("He was in denial the whole time. I think the part that really pushed me over the edge that made me think he – like, this guy did this was he sort of threatened to go after her. He was like, I'm going [to] destroy her. She's lying about me, et cetera, et cetera. . . . And it struck me as not the type of reaction you would have if you were innocent . . . . Like there was no – the part that struck me as odd, he never tried to like, I don't understand why she's doing this, like you know what I mean. Like, if somebody was lying about you, that would be the first question in my mind. He jumped immediately into sort of, like, I didn't do this. I'm going to stop this. I'm going to stop her.").
[130] ISC Interview of Second Campaign Staffer.
[131] *Id.* ("Oh, I mean, you spend a year and a half with somebody it's just in his voice. ... You look really good. I would like to take you out if you didn't work for me. I could totally see him say that. Have you ever cheated on your boyfriend? I could just see him. . . . all the quotes here I can – I just believe he said them. I can hear them in his voice. I can see like, I can vision -- ... sometimes he'd repeat himself. Just the way that she says that he said it a couple times. Like he would repeat himself. It's just a matter of how he talks. Like in the – like 'no' and him laughing, like I could totally see that. . . . But just the way he speaks, that's just the way he speaks."); *see also* ISC Interview of Campaign Staffer (explaining that both the Second Campaign Staffer and the former Campaign Field Director both sent her text messages after her news story broke explaining that they both believe her).
[132] ISC Interview of Nevada Lobbyist.
[133] *Id.*
[134] *Id.* ("We had bills that we either liked or disliked, especially in that session. The Rs were not very friendly to our association in that session. And I think we were one vote shy, so we really needed all the Ds that session.").

Indeed, Nevada Lobbyist was required to personally lobby Representative Kihuen as part of her job.[135]

Nevada Lobbyist alleged that Representative Kihuen touched her inappropriately on several occasions. Nevada Lobbyist explained that she was out with friends during the 2013 legislative session when Representative Kihuen came over to the table she was sharing with friends and sat next to her. She explained that "he like squeezed in with a bunch of other people, and he pushed me up against the wall. And he just kind of like sat his hands on my thigh, just kind of like casually rested it there. And I just kind of tried to like shift away from it and tried to like squeeze up against the wall."[136] Nevada Lobbyist stated that Representative Kihuen's actions that night were witnessed by one of her friends and Nevada Lobbyist said Representative Kihuen's behavior made her feel "grossed out."[137]

According to Nevada Lobbyist, Representative Kihuen's physical advances became more aggressive over time. In the fall of 2014, Representative Kihuen sat next to Nevada Lobbyist and played with her hands and feet under the table during a lunch meeting with Nevada Lobbyist's employers.[138] After the meeting, Representative Kihuen asked Nevada Lobbyist to drive him to his car and she said no. Representative Kihuen asked again in front of her bosses and Nevada Lobbyist agreed, explaining to the ISC, "you can't really say no when your [bosses are] standing right there."[139] According to Nevada Lobbyist, while in the car, Representative Kihuen rested his hands on her thigh and "just like pushed – pushed the dress up a little bit. Like it didn't go kind of anywhere near, but – and then I didn't really know what to do because, you know, you're still in a closed space with a man. So I just kind of took his hand up and dropped it back into his lap and drove him the rest of the way to his car."[140] Nevada Lobbyist said that the incident in the car with Representative Kihuen made her scared and that she "didn't feel like I could do anything or say anything to make him stop."[141] Representative Kihuen told the ISC he did not recall the lunch meeting and denied ever playing with Nevada Lobbyist's feet and hands under a table.[142] Representative Kihuen also said he did not recall being in the car with Nevada Lobbyist and denied touching her thigh.[143]

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[135] *Id.*
[136] *Id.*
[137] *Id.*; ISC Interview of Nevada Lobbyist ("He's always very handsy and like very huggy. I'm not someone who likes that so, I mean, any sort of that kind of touching is not something that I enjoy.").
[138] *Id.* ("he was just very touchy-feely under the table."); *Id.* ("Q: And so when you said that Representative Kihuen was being touchy-feely under the table during lunch, what kind of things was he doing? A: He was like running his foot up my leg and just kind of like – like if my hand was resting, he would like put his hand next to it and like play with my hand.").
[139] *Id.*
[140] *Id.*
[141] *Id.* ("I mean, you – you know the person, I guess, on some level, right? I mean, you've interacted with them before, but I don't know, I think it's – you know, you're still in a confined space with someone who's bigger than you and they're touching you inappropriately. I don't – I don't know. I didn't want to negatively react and, I guess, have it go wrong. . . . we had a professional relationship and I didn't feel like I could do anything or say anything to make him stop.").
[142] ISC First Interview of Representative Kihuen.
[143] *Id.*

Nevada Lobbyist also alleged that Representative Kihuen touched her inappropriately when she was visiting his office one day during the 2015 legislative session. Nevada Lobbyist explained "I don't remember what I was in his office for, but as we were walking out, the way his door was positioned, it kind of hid from the hallway, so if you were standing next to the door, you couldn't directly see in, it was kind of, like, corner. So as I was walking out, he just, like, took a palmful of my butt."[144] According to Nevada Lobbyist, she and Representative Kihuen were alone in the office at the time.[145] Nevada Lobbyist testified that Representative Kihuen's actions made her feel "[k]ind of violated."[146] Representative Kihuen denied ever touching her buttocks.[147]

Nevada Lobbyist did not feel she could tell anyone at her job about Representative Kihuen's actions because there was legislation important to her employer being considered at the time and "to add any more issues to that would have just been – I don't know. I – I was afraid I would lose my job."[148] Nevada Lobbyist went on to explain that Representative Kihuen was very "touchy-feely" with her whenever he saw her out during the 2015 Legislative Session.[149] Representative Kihuen alleges that "[e]very single time we ran into each other at events or they came and lobby me, I was always professional with her. Absolutely 100 percent of the time."[150]

Representative Kihuen also made advances via Facebook and text messages. In 2013, Representative Kihuen sent dozens of Facebook messages to Nevada Lobbyist, which included an unsolicited shirtless picture of himself,[151] multiple comments on her appearance, and repeated attempts to socialize with her.[152] In 2013, Representative Kihuen also sent Facebook messages offering to help Nevada Lobbyist with her work if she "stopped by and visited" him and joking about getting her a job working directly for him.[153]

Nevada Lobbyist explained that Representative Kihuen's messages made her uncomfortable and she felt they were inappropriate.[154] Representative Kihuen also offered to stay and spend the weekend in Carson City if the Nevada Lobbyist agreed to hang out with him.[155] Like the previous messages, Representative Kihuen's messages about "hanging out on weekends" made the Nevada Lobbyist uncomfortable and she felt they were inappropriate.[156] Nevada Lobbyist explained that the Facebook messages made her feel that Representative Kihuen did not

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[144] ISC Interview of Nevada Lobbyist.
[145] ISC Interview of Nevada Lobbyist.
[146] *Id.*
[147] ISC First Interview of Representative Kihuen.
[148] ISC Interview of Nevada Lobbyist.
[149] *Id.* ("I mean, every time I saw Ruben out, that would pretty much happen, so – I mean, I couldn't recall specific dates or anything like that, but -- . . . I would always just try to like dip out of it and try to go talk to somebody else and try to find people, and just, for the most part ignore him. He's very persistent, I guess.").
[150] ISC Second Interview of Representative Kihuen.
[151] Exhibit 7; ISC Interview of Nevada Lobbyist (explaining that Nevada Lobbyist never asked Representative Kihuen to send a picture of himself, that the picture made her uncomfortable, and that she felt it was inappropriate "[b]ecause I don't want to see a State Senator shirtless.").
[152] Exhibit 8.
[153] Exhibit 9.
[154] ISC Interview of Nevada Lobbyist ("[T]here's nothing that you can really say to an elected official – well, I didn't feel that there was anything that you could really say to an elected official when they're telling you things that are clearly kind of towing the line of being inappropriate.").
[155] Exhibit 8; ISC Interview of Nevada Lobbyist.
[156] ISC Interview of Nevada Lobbyist.

take her "seriously as a professional."[157] Representative Kihuen, however, stated that he believed the Facebook messages were "friendly."[158] Representative Kihuen also sent Facebook messages suggesting that the Nevada Lobbyist should come over and lay in his bed to watch a movie, but later, when he did not receive a response, said he was simply joking.[159] The messages about coming over to lay in his bed made Nevada Lobbyist uncomfortable "[b]ecause I didn't want to do that with him [] [a]nd I didn't know how to tell him to stop."[160] Nevada Lobbyist tried to brush Representative Kihuen off, even responding with messages asking how she could "get rid of" him "[b]ecause I wanted him to stop. I guess I was hoping that he would take the hint."[161]

Representative Kihuen did not take the hint and on March 27, 2013, Representative Kihuen asked Nevada Lobbyist for her phone number, writing "I apologize in advance for asking over FB, but can I please have your phone number. Need to talk to you about important matters relating to our state."[162] Nevada Lobbyist explained that she considered denying Representative Kihuen's request and not giving him her number "but [] didn't feel like that was really an option."[163]

Once Representative Kihuen obtained Nevada Lobbyist's phone number, he proceeded to send her text messages that became progressively more sexually aggressive in nature.[164] Indeed, Nevada Lobbyist provided the ISC with more than 150 pages of text messages with Representative Kihuen between 2014 and 2015.[165] Representative Kihuen repeatedly suggested and asked to come over to the Nevada Lobbyist's home,[166] Representative Kihuen asked for "[a] delicious make out kiss,"[167] Representative Kihuen asked "[c]an I come cuddle with you on your bed,"[168] Representative Kihuen asked Nevada Lobbyist to come to his hotel room on a rainy day, and then, when she declined, stated "[n]othing like making passionate love with the window open listening to the rain" and asked if she hated making love,[169] Representative Kihuen asked Nevada Lobbyist on more than one occasion to come sit on his lap during legislative meetings,[170] Representative Kihuen sent text messages stating "[n]ice ass" and "[y]our ass looks amazing in those pants,"[171] Representative Kihuen texted Nevada Lobbyist asking "[w]hat color are your panties," and [m]y

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[157] *Id.*
[158] ISC Second Interview of Representative Kihuen.
[159] Exhibit 8; ISC Interview of Nevada Lobbyist; ISC Second Interview of Representative Kihuen.
[160] ISC Interview of Nevada Lobbyist.
[161] Exhibit 8; ISC Interview of Nevada Lobbyist.
[162] Exhibit 10; ISC Second Interview of Representative Kihuen ("Again, it's very common in Carson City in the legislature to – I mean, I probably have the cell number of most of the lobbyists in the legislature. So it's very common to exchange text messages. Again, there I'll admit it was part to talk business and part to have her phone number. . . . So at that particular point, I don't think there was anything specific that I needed to talk to her about. Honestly, it was probably more for me, I just wanted to have her phone number, to be honest with you.").
[163] ISC Interview of Nevada Lobbyist ("I just felt if, you know, a senator or an assembly person asks for your phone number, you kind of have to give it to them because then they could go to your boss and say, hey your employee – you know, I need to get a hold of your employee and they won't give me their phone number.").
[164] *Id.* ("I felt they got like more sexual towards the end. He kind of like pushed them, I guess.").
[165] *Id.*
[166] Exhibit 11.
[167] Exhibit 12.
[168] Exhibit 13.
[169] Exhibit 14.
[170] Exhibit 15.
[171] Exhibit 16.

day cannot go on without knowing,"[172] and Representative Kihuen texted Nevada Lobbyist stating "[y]ou look fabulous in black," "[b]ut I'm sure you look even better naked."[173] Representative Kihuen characterized his text messages as joking and stated "[t]here were never sexual advances."[174] Representative Kihuen did, however, acknowledge to the ISC that the text messages were "inappropriate [and] unbecoming of a State Senator."[175]

Representative Kihuen also used a significant number of emojis in an attempt to pursue the Nevada Lobbyist. Representative Kihuen sent male and female emojis kissing, which Nevada Lobbyist responded to with a hand palm emoji asking him to stop,[176] Representative Kihuen also sent a male emoji, a princess emoji, a video recorder emoji plus a tape emoji equals three dollar signs which Nevada Lobbyist interpreted as suggesting the two of them "can make a sex tape and make money,"[177] and Representative Kihuen sent emojis suggesting he wanted the Nevada Lobbyist to take off her clothes.[178] According to Nevada Lobbyist, Representative Kihuen also said similarly inappropriate things when he saw Nevada Lobbyist in person.[179]

Nevada Lobbyist consistently and repeatedly rejected Representative Kihuen's advances.[180] On one occasion, Representative Kihuen responded by acknowledging that Nevada Lobbyist was ignoring him "as usual,"[181] and that the Nevada Lobbyist had rejected him "like 4,456,221 times."[182] When Nevada Lobbyist repeatedly rejected Representative Kihuen's attempts to spend time socially with her, Representative Kihuen would reference professional reasons for continuing their interactions. For example, after making plans for a business lunch, Representative Kihuen texted Nevada Lobbyist, "Cool! Or I can come over to your place tonight or any night! To discuss important pieces of legislation, of course."[183] On another occasion, Representative Kihuen sent a text message asking "[w]hen can I see you again . . . I mean, meet to discuss important legislative matter[s]."[184] On February 16, 2015, Representative Kihuen texted repeated requests for Nevada Lobbyist to come and sit on his lap, to which the Nevada Lobbyist responded with angry emojis; Representative Kihuen then sent a text message including a sad face emoji and stating "[y]ou didn't come lobby me today."[185] Ultimately, while Nevada Lobbyist's

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[172] Exhibit 17.
[173] Exhibit 18.
[174] ISC Second Interview of Representative Kihuen.
[175] *Id.*
[176] Exhibit 19; ISC Interview of Nevada Lobbyist ("Q: And what did the hand palm that you sent in response mean? A: Kind of like a 'stop' or, like, 'not going to happen.'").
[177] Exhibit 20; ISC Interview of Nevada Lobbyist; ISC Second Interview of Representative Kihuen (Representative Kihuen denied that the emoji was suggesting making a sex tape, "[i]t was in reference to the tax incentives that we were trying to offer.").
[178] Exhibit 21.
[179] ISC Interview of Nevada Lobbyist ("A lot of the stuff that he would text is kind of like what he would say in person. Like if we were at a bar and he was like being really handsy, or like he would like hug you and then whisper in your ear, like, oh, your ass looks so nice today, or like, oh, you looked so beautiful today in committee. I couldn't stop thinking about you. Like he would say stuff like that. Q: Do you recall roughly how many times he may have said things like that to you? A: Probably every time he saw me, I think.").
[180] *Id.*
[181] Exhibit 22.
[182] Exhibit 13.
[183] Exhibit 23.
[184] Exhibit 24.
[185] Exhibit 15.

repeated rejections are clear from the more than 150 pages of text messages, Nevada Lobbyist did not feel that her rejections could be more forceful given Representative Kihuen's position with the Nevada Legislature.[186] As Nevada Lobbyist told the ISC, "I don't think that he realized it was my job to be nice to him."[187]

Representative Kihuen's text messages made Nevada Lobbyist feel uncomfortable, at times angry, and often times frustrated.[188] Nevada Lobbyist testified that she chose to pass on some social events that could have helped her professional development in part to avoid Representative Kihuen.[189]

Representative Kihuen explained to the ISC that with respect to the Nevada Lobbyist "we were both single – I'm still single – and we certainly flirted with each other. At no time did I use my position as a member of the legislature to pressure or harass her or make any inappropriate request or suggestion."[190] Representative Kihuen described his relationship with Nevada Lobbyist as "friends" but testified that he "did pursue her" and that he "wanted to get to know her."[191] Representative Kihuen described his conversations with the Nevada Lobbyist as "completely consensual, completely friendly and flirtatious with each other."[192] Representative Kihuen acknowledged, however, that Nevada Lobbyist sent some messages rebuffing his advances but explained that Nevada Lobbyist is "very sarcastic" with a "very dry sense of humor," that he believed her responses were jokes,[193] and that "I thought she was just playing a little bit hard to get."[194] Representative Kihuen testified that "[t]here was never an instance where I said, 'If you do this I'm going to kill your bill, or if you don't do this you're not going to get your bill passed.'"[195] Representative Kihuen acknowledged that he "had the ability to [kill her bill] as Vice Chairman of the Committee," and that Nevada Lobbyist knew that.[196]

### *D. Alleged Inappropriate Behavior Directed Towards Other Women*

During the course of its investigation the ISC was presented with allegations, testimony, and evidence of additional alleged inappropriate behavior by Representative Kihuen directed towards other women who chose not to participate in the ISC's investigation.

In December 2017, the media reported that a front desk clerk (Front Desk Clerk) at Representative Kihuen's condo building made allegations that Representative Kihuen was inappropriate in interacting with her. Front Desk Clerk chose not to respond to the ISC's inquiry.

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[186] ISC Interview of Nevada Lobbyist.
[187] *Id.*
[188] *Id.*
[189] *Id.*
[190] ISC First Interview of Representative Kihuen.
[191] *Id.*
[192] *Id.*
[193] ISC Second Interview of Representative Kihuen.
[194] *Id.* ("Again, she's beautiful. In my eyes, I told her many times that she was beautiful. I liked her. Thought she liked me back. And, honestly, in a way I thought she was just playing a little bit hard to get. I've had many girlfriends that I dated that I had to, again, pursue a little more, be a little persistent, not to the point where I'm, again, saying or doing anything inappropriate. But, again, it was just in a flirty way.").
[195] ISC First Interview of Representative Kihuen.
[196] ISC Second Interview of Representative Kihuen.

Representative Kihuen characterized their relationship as "professional."[197] Representative Kihuen stated that he did not express a romantic interest in Front Desk Clerk and that Front Desk Clerk flirted with him and expressed a romantic interest in him.[198] Representative Kihuen also stated that in his last interaction with her, Front Desk Clerk asked if she could stay with him during a visit to Washington D.C. and that "she got mad at me because I didn't let her stay in my apartment."[199] Because Front Desk Clerk chose not to participate in the ISC's inquiry, the ISC is unable to make any determinations with respect to Front Desk Clerk's allegations.

The ISC was also informed that Representative Kihuen may have engaged in inappropriate behavior directed towards a second D.C. firm employee ("Second D.C. Firm Employee") working at the aforementioned D.C. firm. Representative Kihuen allegedly sent unsolicited text messages and expressed interest in Second D.C. Firm Employee in 2017.[200] Second D.C. Firm Employee did not work directly with Representative Kihuen[201] and there is dispute among witnesses regarding the frequency, appropriateness, and receptiveness of Second D.C. Firm Employee to Representative Kihuen's alleged contact and advances.[202] Second D.C. Firm Employee did not respond to repeated attempts by the ISC to contact her, so the ISC is unable to make any determinations with respect to the allegations. However, Second D.C. Firm Employee did refer to Representative Kihuen's interactions as "harassment" in a text message to D.C. Firm Employee.[203] Representative Kihuen told the ISC he did not recall whether he ever communicated with Second D.C. Firm Employee.[204]

A campaign consultant who worked with Representative Kihuen's congressional campaigns ("Campaign Consultant") was approached by another woman (Unidentified Woman) in "December of 2017[,] when all the allegations were coming out."[205] The Unidentified Woman allegedly told Campaign Consultant that she was subjected to inappropriate comments by Representative Kihuen in the fall of 2017.[206] The Unidentified Woman also "referenced some of the comments that were made by some of the other allegations as a pattern that seemed true, based on what [Representative Kihuen] had said to her at some point."[207] The Unidentified Woman, however, "was adamant that she did not want to talk about it," and "said she did not want to be part of any of this."[208] Accordingly, the ISC is unable to make any determinations with respect to the Unidentified Woman's allegations. With respect to the Unidentified Woman's allegations,

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[197] *Id.*
[198] ISC Second Interview of Representative Kihuen.
[199] *Id.* ("That was the last conversation I had with her. I felt that she – she got mad at me because I didn't let her stay in my apartment. I didn't think it was appropriate. I barely knew her, and I did—I just didn't see her that way.").
[200] ISC Interview of D.C. Firm Employee.
[201] ISC Interview of D.C. Firm Partner ("Q: Did [Second D.C. Firm Employee] work on Representative Kihuen's campaign? A: Not directly, but she was in an advisory role and may have advised [] at some point about campaign-related issues.").
[202] ISC Interview of D.C. Firm Employee; ISC Interview of D.C. Firm Partner; ISC Interview of D.C. Firm Co-Worker.
[203] Exhibit 25 ("It was harassment even if we tried to laugh it off.").
[204] ISC First Interview of Representative Kihuen.
[205] ISC Interview of Campaign Consultant.
[206] *Id.*
[207] *Id.*
[208] *Id.*

Campaign Consultant explained, "I have no reason to believe that she was not telling me the truth, and I have no reason to believe that the other women were not telling the truth . . . but I also have no reason to not believe Ruben. I've known Ruben for 15 years."[209]

Finally, on December 14, 2017, after a number of the allegations had been made public, Representative Kihuen sent a text message to two individuals who were helping him address the allegations of misconduct, stating "I'm now afraid that more will come out if I wait too long to announce I won't seek re-election. Or that even if I announce no re-election that it will still not be enough for some and they will still come forward."[210] Representative Kihuen testified that he wrote the December 14, 2017, message because he has dated dozens of women and "you never know if any of them, because we broke up or because it didn't work out, would come forward but not because there's anything specific that I was pinpointing to."[211]

## V. ANALYSIS

### *A. Jurisdiction*

Not all of the allegations against Representative Kihuen fall within the Committee's, and by extension the ISC's, jurisdiction. The Committee has jurisdiction over the conduct of Members, officers and employees of the House of Representatives.[212] In 1998, the Committee addressed the question of whether its jurisdiction extended to behavior occurring before a Member was sworn into Congress.[213] *In the Matter of Representative Jay Kim*, the Committee was presented with allegations that a Member accepted campaign contributions from foreign nationals, as well as excessive contributions, during his successful campaign to the House.[214] The Committee consulted the House Parliamentarian to determine whether conduct that predated a Member's term in the House fell within the Committee's jurisdiction and the Parliamentarian advised the Committee that it had jurisdiction "to investigate allegations of misconduct relating to a successful campaign for election to the House."[215] The Committee voted unanimously to concur in the Parliamentarian's interpretation of its jurisdiction and announced the scope of its jurisdiction in a public statement.[216] The Committee publicly reiterated that it has jurisdiction to investigate

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[209] *Id.*
[210] Exhibit 26.
[211] ISC Second Interview of Representative Kihuen.
[212] *See* House Rule XI, clause 3.
[213] House Comm. on Standards of Official Conduct, *In the Matter of Representative Jay C. Kim*, H. Rep. 105-797, 105th Cong. 2d Sess. (1998).
[214] *Id.*
[215] *Id.*
[216] *Id.* ("The Parliamentarian also advised the Chairman and Ranking Democratic Member that the Committee had jurisdiction under House Rule 10, Clause 4(e), to investigate allegations of misconduct relating to a successful campaign for election to the House. Consequently, the Chairman and Ranking Democratic Member exercised their authority under Committee Rule 17(c) to establish an investigative subcommittee to conduct an inquiry concerning Representative Kim.").

allegations of misconduct relating to a successful campaign for election to the House in 2001 and 2012.[217]

On December 21, 2017, the Committee delegated authority to the ISC to conduct the instant investigation. The ISC collected evidence relating to allegations of misconduct from before, during, and after Representative Kihuen's election to the House. While the ISC cannot make a finding of a violation on the basis of allegations that occurred before Representative Kihuen was within the Committee's jurisdiction, the ISC is free to consider all relevant evidence, even when the corresponding allegations fall outside of the ISC's jurisdiction, to the extent it shows a pattern or practice of behavior by Representative Kihuen or assists in the ISC's credibility determinations. Accordingly, while the ISC need not look back any further than Representative Kihuen's conduct as a sitting Member of Congress to find that he violated applicable House Rules, the ISC considered all evidence related to allegations against Representative Kihuen in making the necessary credibility determinations.[218]

*B. Sexual Harassment*

Discrimination against an employee on the basis of sex or gender is strictly prohibited by the Code of Official Conduct as well as the CAA, which subjects Members of Congress to a number of federal employment laws, including Title VII of the Civil Rights Act of 1964. The Committee has long held "that sexual harassment is a form of sex discrimination," and that such behavior violates the House Code of Official Conduct.[219] *In the Matter of Representative Jim Bates*, the Committee expressly held that a Member who violates applicable sex discrimination and sexual harassment laws also stands in violation of House Rule XXIII, clause 9.[220] The Committee also explained that clause 9 "tracks the language of Title VII of the Civil Rights [Act] of 1964 and should be interpreted in light of judicial and administrative decisions construing that law."[221] On February 6, 2018, the House formally amended clause 9 to confirm that the prohibition includes "committing an act of sexual harassment against such an individual."[222]

The Code of Federal Regulations explains that, under Title VII, "[u]nwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of

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[217] House Comm. on Standards of Official Conduct, *In the Matter of Representative Earl F. Hilliard*, H. Rep. 107-130, 107th Cong. 1st Sess. (2001) (hereinafter *Hilliard*); Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative Michael Grimm (Nov. 26, 2012).

[218] Because the ISC found that Representative Kihuen violated applicable House Rules with respect to his conduct as a sitting Member of the House, the ISC need not address whether any of Representative Kihuen's behavior prior to being sworn in as a Member of the House falls within the ISC's jurisdiction.

[219] *Ethics Manual* at 268-69 (citing House Comm. On Standards of Official Conduct, House Comm. on Standards of Official Conduct, *Bates* at 8-10; *see also Meritor,* 477 U.S. at 67 (quoting *Henson v. Dundee*, 682 F.2d 897, 902 (11th Cir. 1982)) ("Sexual harassment which creates a hostile or offensive environment for members of one sex is every bit the arbitrary barrier to sexual equality at the workplace that racial harassment is to racial equality. Surely, a requirement that a man or woman run a gauntlet of sexual abuse in return for the privilege of being allowed to work and make a living can be as demeaning and disconcerting as the harshest of racial epithets.").

[220] *See Bates* at 8-10.

[221] *Ethics Manual* at 269 (internal citation omitted).

[222] H.R. Res. 724, 115th Cong. (2018).

such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."[223]

Not every instance of unwelcome "sexual advances" or "verbal or physical conduct of a sexual nature" amounts to discrimination under federal law.[224] When determining whether unwelcome sexual advances rise to a level to allow for legal remedies, reviewing courts focus on whether the advances were premised on a *quid pro quo* exchange, *i.e.* "that a tangible job benefit or privilege is conditioned on an employee's submission to sexual black-mail and that adverse consequences follow from the employee's refusal,"[225] or whether the sexual advances were "sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment" for the recipient. [226]

While the Committee has addressed allegations of sexual harassment in the past, those matters have generally involved unwanted advances directed towards employees of the House of Representatives. In 1989, the Committee considered whether a Member violated a law or House Rule when he straddled a staffer's leg, touched a staffer's knees, shoulders and buttocks, and made comments of a sexual nature, including commenting on how a staffer's breast looked.[227] The Committee found that the Member violated clause 9 of the Code of Official Conduct by sexually harassing two female staffers and reproved the Member for his conduct.[228]

In 2014, the Committee found that a Member told a House staffer that "he had difficulty sleeping after sex"; and "he could not understand how male and female Members of Congress, but especially female Members, can stay in their own clothing, specifically their underwear, for 16 hours at a time."[229] The Committee found that the Member's comments did not, on their own support a claim for sexual harassment, because they "do not constitute sufficiently pervasive or severe conduct to render the work environment discriminatory."[230] Although the Committee found no House Rules were violated, it noted that it "finds it concerning that in the year 2014 it has to remind a Member that such comments show poor judgment."[231] It is now 2018, and that concern has not diminished. Thus, the ISC states, in the strongest terms, that sexual harassment and discrimination in the workplace are serious matters and Members should avoid even the appearance of such conduct.

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[223] 29 CFR § 1604.11(a) (1999); *Meritor,* 477 U.S. at 65 (citing the quoted provision of the CFR and explaining that the quoted provision "describe[s] the kinds of workplace conduct that may be actionable under Title VII.").
[224] 29 CFR § 1604.11(a); *Faragher v. City of Boca Raton,* 524 U.S. 775, 787-88 (1998) (explaining that courts should look at circumstances such as the "'frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance'" to determine "whether an environment is sufficiently hostile or abusive" to allow for legal recourse) (citations omitted).
[225] *Gary v. Long*, 59 F.3d 1391, 1395 (D.C. Cir. 1995) (citation omitted).
[226] *Meritor,* 477 U.S. at 67.
[227] *See Bates.*
[228] *Id.*
[229] House Comm. on Standards of Official Conduct, *In the Matter of Representative Alcee L. Hastings*, H. Rep. 113-663, 113th Cong. 2d Sess. 12 (2014).
[230] *Id.* at 14.
[231] *Id.* at 16.

Each of the aforementioned matters involved House employees. The Committee has not previously applied clause 9 to conduct directed at individuals who are not employed by the House of Representatives. The Committee has, however, found that a Member's unwanted advances towards an individual not employed by the Member were contrary to the requirement in House Rule XXIII, clause 1, that Members must act in a manner that reflects creditably upon the House.[232] Accordingly, even if Representative Kihuen's conduct while in Congress does not violate Title VII or other applicable sexual harassment laws, his conduct could still violate clause 1.

This Committee has previously stated that "[c]lause 1 is the most comprehensive provision of the Code and was adopted, in part, so that the Committee, in applying the Code, would retain 'the ability to deal with any given act or accumulation of acts which, in the judgment of the committee, are severe enough to reflect discredit on the Congress.'"[233] The Committee has long taken the position that misconduct relating to a campaign and other outside activities occurring during a Member's tenure in the House can be the basis for finding a violation of clause 1.[234]

Further, clause 9 prohibits Members from engaging in discrimination and harassment towards an individual with respect to hiring, "compensation, terms, conditions, or privileges of employment." The Rule is not limited to individuals employed by the House, but includes any individual for whom the Member has control over the terms or conditions of their employment. Even if Representative Kihuen did not squarely violate clause 9, Members are charged under Rule XXIII, clause 2, with following the *spirit* as well as the letter of House rules.[235]

For the reasons discussed below, the ISC found that at least one woman who was working with Representative Kihuen while he was a Member of the House (and thus within the Committee's jurisdiction), was subject to unwanted advances, including unwanted kissing and touching.[236] The ISC also found that Representative Kihuen's denial of that woman's allegations, and his denials of the allegations of at least two other women, were not credible. Accordingly, the ISC found that Representative Kihuen violated clauses 1 and 2 of House Rule XXIII.

### *1. The ISC found Representative Kihuen's Complainants to be Credible*

First, the ISC found Representative Kihuen's complainants to be credible based on their testimony and accompanying supporting evidence. The ISC was presented with compelling testimony from Campaign Staffer, D.C. Firm Employee, and Nevada Lobbyist that Representative

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[232] House Comm. on Standards of Official Conduct, *In the Matter of Representative Gus Savage*, H. Rep. 101-397, 101st Cong. 2d Sess. (1990) (hereinafter *Savage*) (finding a violation of then-Rule XLIII, clause 1, which utilized the same language now found at Rule XXIII, clause 1, based on unwanted sexual advances directed towards a Peace Corp volunteer who was not an employee of the House).

[233] *In the Matter of Representative E.G. "Bud" Shuster*, H. Rep. 106-979, 106th Cong., 2d Sess. 9 (Oct. 16, 2000); *Hilliard* at 12.

[234] *See Ethics Manual* at 14-16, 122-23.

[235] *Id.* at 16-17; 268-69 (citing *Bates* at 8-10).

[236] Having found that Representative Kihuen's conduct with respect to D.C. Firm Employee falls within the Committee's jurisdiction, the ISC did not need to reach the question of whether Representative Kihuen's conduct with respect to Campaign Staffer was within the Committee's jurisdiction and takes no position on that question. The ISC's recommendation in this Report is based solely on Representative Kihuen's conduct after his election to Congress.

Kihuen made repeated unwanted advances, many of an overt sexual nature, towards women who were required to interact with him as part of their professional responsibilities.

The complainants' allegations are also supported by evidence that they contemporaneously detailed the very behavior that Representative Kihuen denies to friends, family members and co-workers.[237] Accordingly, to accept Representative Kihuen's assertions that the alleged conduct did not occur, the ISC would have to find that the complainants interviewed by the ISC – three women unrelated by time, space, or profession – lied to their family, friends, co-workers and supervisors on or around the dates that each alleged incident occurred. The ISC found the complainants' assertions to be more compelling.

The allegations are also bolstered by the similarities in the accounts. Two unrelated women, Campaign Staffer and Nevada Lobbyist, have both testified that Representative Kihuen touched their thighs while they were riding in a car with him.[238] Two unrelated women, Campaign Staffer and Firm Partner, have both testified that Representative Kihuen asked them if they have ever or would ever cheat on their boyfriend or husband.[239] Two unrelated women, D.C. Firm Employee and Nevada Lobbyist, have either testified or produced evidence that Rep. Kihuen spoke to them about their career or career advancement in the course of hitting on them.[240] Finally, two unrelated women, Campaign Staffer and Nevada Lobbyist, have both testified that Representative Kihuen has grabbed the back of their thigh or their buttocks while they were alone in an office with him.[241]

The ISC finds it noteworthy that Representative Kihuen was confronted by two separate entities regarding his behavior towards women before the first news report was published. The ISC was presented with evidence that Firm Partner contacted Representative Kihuen "to let him know he needed to be careful and that I had heard that he had been communicating with people at my office and he should knock that off."[242] Likewise, Representative Kihuen's campaign was contacted by the DCCC regarding Representative Kihuen making Campaign Staffer "uncomfortable."[243] While Representative Kihuen continues to deny that he behaved inappropriately with respect to the complainants, at least two unrelated individuals from two separate organizations felt that Representative Kihuen's behavior was of sufficient concern that they confronted him regarding his behavior.

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[237] *See* Exhibits 3, 4 & 5; ISC Interview of Campaign Staffer; ISC Interview of D.C. Firm Employee; ISC Interview of D.C. Firm Co-Worker; ISC Interview of D.C. Firm Partner ("[D.C. Firm Employee] had mentioned – or had said to me that she had been at an event with Ruben and he had come up and hugged her and kissed her . . . at a fundraiser.").

[238] ISC Interview of Campaign Staffer ("[H]is hand was pretty firm, like it was hard for me to wiggle away."); ISC Interview of Nevada Lobbyist ("we got in my car, and he – I was wearing like a skater dress that the bottom was like a little bit more I guess kind of flouncy. And he just like rested his hands on my thigh and just like pushed – pushed the dress up a little bit.").

[239] ISC Interview of Campaign Staffer; ISC Interview of D.C. Firm Partner ("Q: Did Representative Kihuen ask you if you would be unfaithful to your husband during that conversation? A: You know what; I think, yes, he did.").

[240] ISC Interview of D.C. Firm Employee; Exhibit 9; ISC Interview of Nevada Lobbyist.

[241] ISC Interview of Campaign Staffer ("[S]o I stood up to get a better look at the computer, and he grabbed the back of my thigh."); ISC Interview of Nevada Lobbyist ("So as I was walking out, he just, like, took a palmful of my butt.").

[242] ISC Interview of D.C. Firm Partner; ISC Interview of Former Chief of Staff.

[243] ISC Interview of Campaign Manager.

Representative Kihuen proffered character witnesses from his time in the Nevada Senate who stated that they never witnessed Representative Kihuen behave inappropriately towards any woman.[244] Both of the two character witnesses interviewed by the ISC, however, testified that they have no first-hand knowledge regarding the allegations of the aforementioned complainants.[245] In contrast, two other witnesses testified before the ISC that they worked closely with both Representative Kihuen and one of the complainants, Campaign Staffer, and that based on their first-hand experience with those two individuals, they believe Campaign Staffer's allegations.[246]

Finally, the ISC found Representative Kihuen's credibility to be undermined by the scope of his denials. First, with respect to D.C. Firm Employee, Representative Kihuen's testimony that he did not have any physical contact with D.C. Firm Employee during the karaoke themed fundraiser stands at odds with D.C. Firm Employee's testimony,[247] the testimony of a witness who told the ISC that she saw Representative Kihuen put his hand on D.C. Firm Employee's shoulders and lower back at various points in the evening,[248] and contemporaneous text messages.[249] Similarly, Representative Kihuen's assertion that his conversation with D.C. Firm Partner "wasn't specifically about staffers with her firm,"[250] stands at odds with the testimony of Representative Kihuen's former Chief of Staff[251] and D.C. Firm Partner's own testimony.[252]

Likewise, Representative Kihuen's denials regarding the atmosphere in his 2016 congressional campaign office stand at odds with the testimony of his campaign staffers. Campaign Staffer testified that in February 2016, Representative Kihuen began talking about his sex life and "women he dated or women he slept with in the office in front of everybody."[253] Campaign Staffer testified that Representative Kihuen discussed a "Sports Illustrated model, and basically said they slept together, and she was upset about it because he didn't want a serious relationship," and talked about how one of their primary opponents "slept with a ton of people."[254] Another campaign staffer testified that Representative Kihuen "would often make jokes about sex or women in some form or another, that were also sexual" in the campaign office,[255] and confirmed that Representative Kihuen made disparaging remarks about a primary opponent, calling her a

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[244] *See* ISC Interview of First Kihuen Character Witness; ISC Interview of Second Kihuen Character Witness.
[245] *See* ISC Interview of First Kihuen Character Witness; ISC Interview of Second Kihuen Character Witness.
[246] ISC Interview of Campaign Manager; ISC Interview of Second Campaign Staffer.
[247] ISC Interview of D.C. Firm Employee.
[248] ISC Interview of D.C. Firm Co-Worker.
[249] Exhibit 4.
[250] ISC First Interview of Representative Kihuen.
[251] ISC Interview of Former Chief of Staff ("At one point a partner at the firm had said to me that she had spoken to Ruben about ensuring he didn't come across as too friendly with the junior staff.").
[252] ISC Interview of D.C. Firm Partner.
[253] ISC Interview of Campaign Staffer.
[254] ISC Interview of Campaign Staffer.
[255] ISC Interview of Second Campaign Staffer ("Ruben certainly made jokes that were beyond inappropriate if other women were in the room. . . . Well many of the comments that [Representative Kihuen] made to me were sexual. And he joked around like that with [Campaign Manager] as well.").

"slut" in front of campaign staff,[256] and that Representative Kihuen "made a joke like Black women are good in bed."[257]

In contrast, Representative Kihuen denied ever talking to his campaign staffers about his sex life, denied ever making any sexually explicit or related jokes around his staffers, Representative Kihuen denied telling any campaign staffers "that Black women are good in bed," and Representative Kihuen denied ever talking to his campaign staffers about a Sports Illustrated model that he may have slept with.[258] Representative Kihuen also denied ever calling one of his primary opponents a "slut" in front of his campaign staff, denied ever talking to his campaign staff about how attractive a particular woman was, and denied ever commenting on a woman's posterior in front of campaign staffers.[259]

Finally, Representative Kihuen denied engaging in any inappropriate behavior with respect to Nevada Lobbyist and testified that he and Nevada Lobbyist were "friendly with each other" but that "[t]here were never sexual advances."[260] Representative Kihuen's denial, however, stands at odds with text messages he sent where Representative Kihuen asked for "[a] delicious make out kiss,"[261] where he asked "[c]an I come cuddle with you on your bed,"[262] where Representative Kihuen invited Nevada Lobbyist to his hotel room on a rainy day and stated "[n]othing like making passionate love with the window open listening to the rain,"[263] where Representative Kihuen asked Nevada Lobbyist on more than one occasion to come sit on his lap during legislative meetings,[264] where Representative Kihuen sent text messages stating "[n]ice ass" and "[y]our ass looks amazing in those pants."[265] where Representative Kihuen asked Nevada Lobbyist "[w]hat color are your panties,"[266] and where Representative Kihuen stated to Nevada Lobbyist "[y]ou look fabulous in black, . . . [b]ut I'm sure you look even better naked."[267]

The ISC did not find Representative Kihuen's denials on these matters to be credible, especially when considered next to strong documentary and testimonial evidence to the contrary. By contrast, the ISC found Representative Kihuen's complainants to be credible and forthcoming. Representative Kihuen's failure to acknowledge his general sexual comments or flirtations further undermined his credibility as to the more central allegations of unwanted advances and inappropriate touching. The ISC found it concerning that Representative Kihuen did not own up to his actions, nor did he appear to appreciate the position in which he put women who were required to interact with him as part of their professional responsibilities.

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[256] *Id.*; ISC Interview of Campaign Staffer.
[257] ISC Interview of Second Campaign Staffer.
[258] ISC First Interview of Representative Kihuen.
[259] *Id.*
[260] ISC Second Interview of Representative Kihuen.
[261] Exhibit 12.
[262] Exhibit 13.
[263] Exhibit 14.
[264] Exhibit 15.
[265] Exhibit 16.
[266] Exhibit 17.
[267] Exhibit 18.

2. *Representative Kihuen's Conduct Violated Applicable House Rules*

Actionable sexual harassment, under Title VII and applicable laws is an exacting standard. Unwelcome sexual advances must be premised on a *quid pro quo* exchange, *i.e.* "that a tangible job benefit or privilege is conditioned on an employee's submission to sexual black-mail and that adverse consequences follow from the employee's refusal,"[268] or "sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment" in order for an individual to sustain a viable legal claim.[269]

While Representative Kihuen's conduct may not have risen to the Title VII standard for sexual harassment, the ISC finds that Representative Kihuen's unwanted advances towards women who were required to interact with him as part of their professional responsibilities did not reflect creditably upon the House, violated the spirit of applicable sexual harassment and gender discrimination laws, and warrants Reproval by the Committee.

While Representative Kihuen denied the majority of the allegations levied against him, he also reminded the ISC that he is a single, unmarried, man, and that, other than Campaign Staffer, none of the women worked directly for him.[270] While Representative Kihuen is, indeed, free to pursue romantic relationships, and the majority of women raising allegations did not work for him, the allegations before the ISC involve alleged persistent and unwanted advances directed towards women who were required to interact with Representative Kihuen as part of their job. Contrary to Representative Kihuen's assertions, such actions have been found to be a violation of applicable House Rules in the past and Representative Kihuen's actions stand in violation of applicable House Rules today.

The Committee has previously found a Member's unwelcome sexual advances to be a violation of clause 1 even without an employer/employee relationship.[271] In 1990, the Committee found that a Member made unwelcome sexual advances toward a Peace Corps volunteer while on an official trip.[272] The Committee found that the Member's conduct was contrary to the standard of conduct expressed in clause 1, and found the Member in violation despite the fact that his behavior was not directed towards a House employee or volunteer.[273]

The ISC found that, while a Member of Congress, Representative Kihuen engaged in unwanted physical contact by repeatedly kissing D.C. Firm Employee's cheek and touching her shoulders and lower back, and engaged in unwanted advances by commenting on D.C. Firm Employees physique, commenting on her appearance, inquiring about her relationship status, asking D.C. Firm Employee if she lived alone and commenting that he lived alone, and insinuating

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[268] *Gary*, 59 F.3d at 1395.
[269] *Meritor*, 477 U.S. at 67.
[270] ISC First Interview of Representative Kihuen; ISC Second Interview of Representative Kihuen ("How am I supposed to meet my future wife if I don't flirt with someone or if I don't – you know, I'm just being honest.").
[271] *Savage* at 14 (finding a violation of then-Rule XLIII, clause 1, which utilized the same language now codified at Rule XXIII, clause 1 with respect to unwanted sexual advances directed towards a Peace Corp volunteer who was not an employee of the House).
[272] *Id.*
[273] *Id.*

that he would help D.C. firm employee with her career in exchange for a romantic relationship.[274] Representative Kihuen also behaved inappropriately when inquiring whether Firm Partner would cheat on her spouse.[275]

The ISC stresses that it finds Representative Kihuen in violation of clause 1 and clause 2 in large part because his unwanted advances were directed towards women required to interact with him as part of their professional responsibilities. While Members are free to pursue romantic and intimate relationships outside of the House, there is an inherent power imbalance when Members romantically pursue individuals who are required to interact with Members as part of their professional responsibilities. That power dynamic was referenced by multiple witnesses in this matter.[276] While Representative Kihuen stated he didn't think the power imbalance was at play in his interactions,[277] Representative Kihuen acknowledged that he had the power to affect at least one complainant's career but asserted that because he never expressly threatened to utilize that power he did nothing wrong.[278] That power imbalance and Representative Kihuen's insistence that he did nothing wrong makes the plight of the women who have chosen to speak up more difficult.

While Representative Kihuen may never have intended to affect their careers, the complainants' professional lives were clearly impacted by his actions. D.C. Firm Employee and Nevada Lobbyist both testified that they felt they missed out on career opportunities as a result of Representative Kihuen's unwanted advances,[279] and Campaign Staffer testified that she felt her decision to leave Representative Kihuen's campaign early, because of his unwanted advances, may negatively affect her future employment.[280]

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[274] ISC Interview of D.C. Firm Employee.

[275] ISC Interview of D.C. Firm Partner ("Q: Did you feel that the statement was appropriate in the context of the conversation? A: No.").

[276] ISC Interview of D.C. Firm Employee ("I'm not in a place to yell at a Member of Congress and say 'stop touching me' because I just started my career, she said. He's a Member of Congress and a client of my firm and some of my friends were, like, why didn't you just shut him down? Tell him to stop talking to you? And it's because there's just such a power dynamic that makes it so you can't really."); ISC Interview of D.C. Firm Co-Worker; ISC Interview of Nevada Lobbyist.

[277] ISC Second Interview of Representative Kihuen ("Q: You described [Nevada Lobbyist] as a someone who would come lobby you with her bosses. She was a junior lobbyist. You said you were vice chair of a very powerful committee. Do you think there was a power imbalance between you and her? A: Again, I didn't see it as: I'm the chair. I'm the vice chairman. I'm the Senator. I'm the majority whip, and you're just a lobbyist. I didn't see it that way. I saw it as: I like you and – I mean, I'm going to be honest with you. How am I supposed to meet my future wife if I don't flirt with someone or if I don't – you know, I'm just being honest.").

[278] *Id.* ("There was no – no indication here, and you'll see, did I ever say, if you don't come over, I'm going to kill your bill. Because I had the ability to do it as a vice chairman of the committee. And, again, I want to make that clear. There was no quid pro quo here. There was no, you need to do this, you know, or else I'll kill your bill or not pass your bill. This is, again, maybe flirting gone bad.").

[279] ISC Interview of D.C. Firm Employee (testifying that Representative Kihuen's behavior towards women in general and attention directed at her were two of multiple factors taken into consideration that resulted in a missed job opportunity); ISC Interview of Nevada Lobbyist.

[280] ISC Interview of Campaign Staffer ("But I was also worried that quitting a campaign before it ended would kind of look bad, like it would look like I wasn't willing to work hard enough, or that I wasn't really committed to my position. And I think, especially because with campaigns, you're usually working 7 days a week, you might be in the office for over 12 hours, I would think people who are hiring for campaigns would be really concerned about someone who seemed kind of flaky, or if they would quit if they didn't like something.").

Representative Kihuen testified that "I find it intriguing every now and then when a woman plays a little bit of hard to get." [281] In pursuing women Representative Kihuen may have believed were playing "hard to get," Representative Kihuen subjected those women to repeated unwanted advances, made those women feel uncomfortable in their working environment, and ultimately violated clauses 1 and 2 of the Code of Official Conduct.

In the course of its investigation, the ISC encountered evidence of a general tolerance of inappropriate behavior in the political arena. Each of the women raising allegations expressed fear of facing consequences for speaking up, often by employers other than Representative Kihuen, and many other alleged recipients of unwanted advances by Representative Kihuen chose not to participate in the ISC's inquiry. While Representative Kihuen is responsible for his own actions, the ISC was left with questions as to whether other entities outside of its jurisdiction could have done more to support the targets of Representative Kihuen's unwanted advances.[282]

The ISC agrees with one key statement made by Representative Kihuen: "[n]o one should ever feel uncomfortable in their working environment."[283] Whether it's in a congressional office, on the campaign trail, or in any other professional environment, Members must be sensitive to the power imbalance that exists between themselves and others and must not make individuals interacting with them as part of their professional responsibilities feel uncomfortable due to unwanted advances.

## VI. RECOMMENDATIONS

For the aforementioned reasons the ISC recommends that the Committee adopt this report and issue a Reproval to Representative Kihuen for his behavior.

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[281] ISC Second Interview of Representative Kihuen.

[282] The ISC was presented with credible evidence that when D.C. Firm Employee initially approached the D.C. Firm to raise awareness of Representative Kihuen's advances, her direct supervisor, Firm Partner, suggested that she sleep with Representative Kihuen and come back and provide details of the encounter. When D.C. Firm Employee approached the Firm about Representative Kihuen's behavior at the karaoke fundraiser, the evidence indicates that the D.C. Firm did not take immediate action but waited until after other news reports regarding sexual harassment and the #MeToo movement began to gather steam before speaking to Representative Kihuen.

Likewise, the ISC is left with questions regarding the DCCC's response to allegations of inappropriate behavior by Representative Kihuen during his 2016 congressional campaign. While the DCCC spoke to both Campaign Staffer and Campaign Manager, it is not clear that the DCCC performed anything more than a surface inquiry into the allegations. It appears that both the D.C. Firm and the DCCC could have done more to support the complainants.

[283] ISC First Interview of Representative Kihuen.

# Exhibit 1

**From:** [redacted]
**To:**
**Subject:** RE: Thank you!
**Sent:** Wed, 11 Oct 2017 21:20:54 +0000

Any time :)

[redacted]

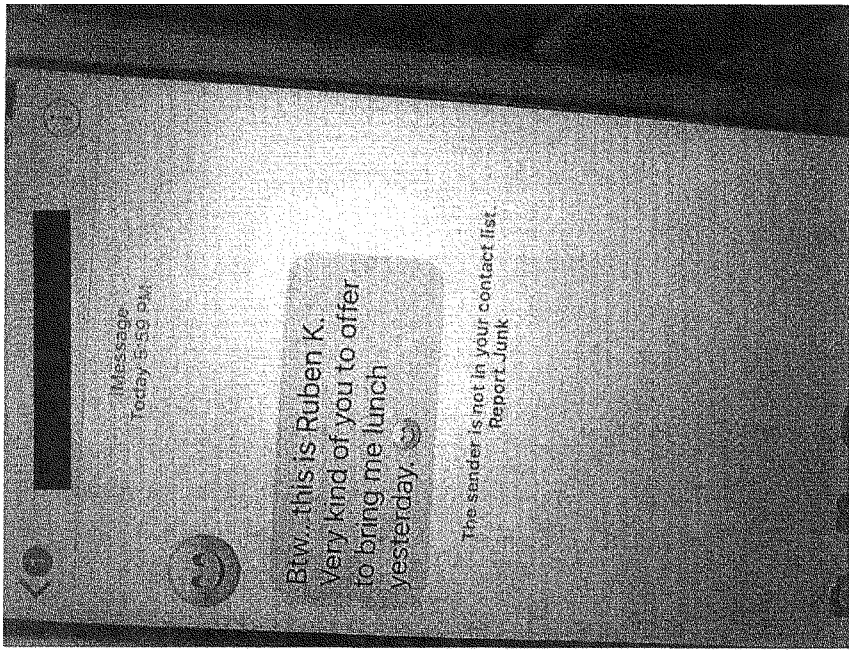
-----Original Message-----
From: [redacted]
Sent: Wednesday, October 11, 2017 4:03 PM
To: [redacted]
Subject: Thank you!

Hi [redacted] hope this is your email address. Just wanted to say thank you for offering to bring me lunch today. Not sure if I said thanks. You're so sweet. :)

Ruben

Sent from my iPhone

# Exhibit 2


[redacted]
Message
Today 8:59 PM
Btw... this is Ruben K.
Very kind of you to offer
to bring me lunch
yesterday.
The sender is not in your contact list.
Report Junk



[redacted]

# Exhibit 3

Participants: [redacted]

Timestamp: Date: 9/27/2017 9:27:36 PM
From: [redacted]
Body: Also ruben asked me if I'm single and then asked me why I'm still single lol

Timestamp: Date: 9/27/2017 9:27:48 PM
From: [redacted]
Body: But I heard you're going to [redacted]

Timestamp: Date: 9/27/2017 9:51:34 PM
From: [redacted]
Body: Good, that's awesome. I'm glad it's going well. I am going to [redacted] How's the itinerary looking?

Timestamp: Date: 9/27/2017 9:54:59 PM
From: [redacted]
Body: It's good! Do you need a copy? Lol

Timestamp: Date: 9/27/2017 9:55:16 PM
From: [redacted]
Body: Omg yes. Send me one

Timestamp: Date: 10/11/2017 9:05:44 PM
From: [redacted]
Attachment #1: IMG_9351.JPG.jpeg

Timestamp: Date: 12/1/2017 5:59:28 PM
From: [redacted]
Body: You're gonna get a not fun call from [redacted] today about Ruben... we just had a similar convo so let me know if you want to debrief before!!

Timestamp: Date: 12/1/2017 6:58:18 PM
From: [redacted]
Body: Oh damn

Timestamp: Date: 12/1/2017 7:03:54 PM
From: [redacted]
Body: Are you okay?

Timestamp: Date: 12/1/2017 7:04:32 PM
From: [redacted]
Body: Yeah I'm totally fine. Did she call you yet?

Timestamp: Date: 12/1/2017 7:04:53 PM
From: [redacted]
Body: No. She asked me to call her after 3pm

Timestamp: Date: 12/1/2017 7:05:35 PM
From: [redacted]



[redacted]

# Intentionally Left Blank

Participants: [redacted]

Timestamp: Date: 10/11/2017 5:15:24 PM
From: [redacted]
Body: Today's episode of "Weird Emails from Congressmen"
Attachment #1: IMG_9351.JPG.jpeg

Timestamp: Date: 10/11/2017 5:25:02 PM
From: [redacted]
Body: Emphasized "Today's episode of "Weird Emails from Congressmen""

Timestamp: Date: 10/11/2017 5:27:48 PM
From: [redacted]
Body: Last week he asked me how old I am and if I'm single ☹

Timestamp: Date: 10/11/2017 6:33:07 PM
From: [redacted]
Body: Lol

Timestamp: Date: 10/12/2017 10:14:32 PM
From: [redacted]
Body: is his middle name jesus

Timestamp: Date: 10/12/2017 10:15:00 PM
From: [redacted]
Body: Lol yup

Timestamp: Date: 10/12/2017 10:19:54 PM
From: [redacted]
Body: ...
Attachment #1: IMG_9357.PNG.png

Timestamp: Date: 10/12/2017 10:22:55 PM
From: [redacted]
Body: His muscles aren't too bad

Timestamp: Date: 10/12/2017 10:23:38 PM
From: [redacted]
Body: He's the one who skips call time to buy protein powder

Timestamp: Date: 10/12/2017 10:23:51 PM
From: [redacted]
Body: Lol

Timestamp: Date: 10/12/2017 10:30:56 PM
From: [redacted]
Body: Laughed at "Hey girl "

Timestamp: Date: 10/12/2017 10:31:38 PM
From: [redacted]



[redacted]

# Exhibit 4

Wed, Oct 25, 6:29 PM

If y'all are staying late order me some food too

We're going to karaoke sorry!

Ruben has kissed me on the cheek twice already

And he told me my sweater looks cozy lol

And told me that I'm a sweetheart and thanked me again for offering to bring him food

Did you cancel your rooms? What did they say?

Yeah I did

They didn't say anything



[redacted]

Participants: [redacted]

Timestamp: Date: 10/25/2017 11:10:11 PM
From: [redacted]
Body: Congressman Kihuen just told me that I look athletic, that I am one of the most beautiful girls in washington, and asked me again why I don't have a boyfriend

Timestamp: Date: 10/25/2017 11:10:17 PM
From: [redacted]
Body: He's kissed my cheek twice

Timestamp: Date: 10/25/2017 11:10:30 PM
From: [redacted]
Body: That's so gross [redacted]

Timestamp: Date: 10/25/2017 11:10:33 PM
From: [redacted]
Body: It's more than gross

Timestamp: Date: 10/25/2017 11:10:44 PM
From: [redacted]
Body: That's just like straight up harassment

Timestamp: Date: 10/25/2017 11:10:58 PM
From: [redacted]
Body: I really don't know

Timestamp: Date: 10/25/2017 11:11:29 PM
From: [redacted]
Body: Your office has been pretty unreceptive when you've talked to people about this?

Timestamp: Date: 10/25/2017 11:11:44 PM
From: [redacted]
Body: My boss told me to sleep with him

Timestamp: Date: 10/25/2017 11:24:51 PM
From: [redacted]
Body: Three kisses!!

Timestamp: Date: 10/25/2017 11:25:08 PM
From: [redacted]
Body: jesus

Timestamp: Date: 10/25/2017 11:25:16 PM
From: [redacted]
Body: this is genuinely out of hand

Timestamp: Date: 10/25/2017 11:25:19 PM
From: [redacted]
Body: and you shouldn't have to deal with it



[redacted]

# Exhibit 5

40° 68% 10:25 PM

[redacted]

P Yes 4:37 PM

Thursday, March 10, 2016

Can i call you sometime soon? I"m not sure if i need advice or if i need to vent 1:14 PM

P Yeah can you call at 5et 1:14 PM

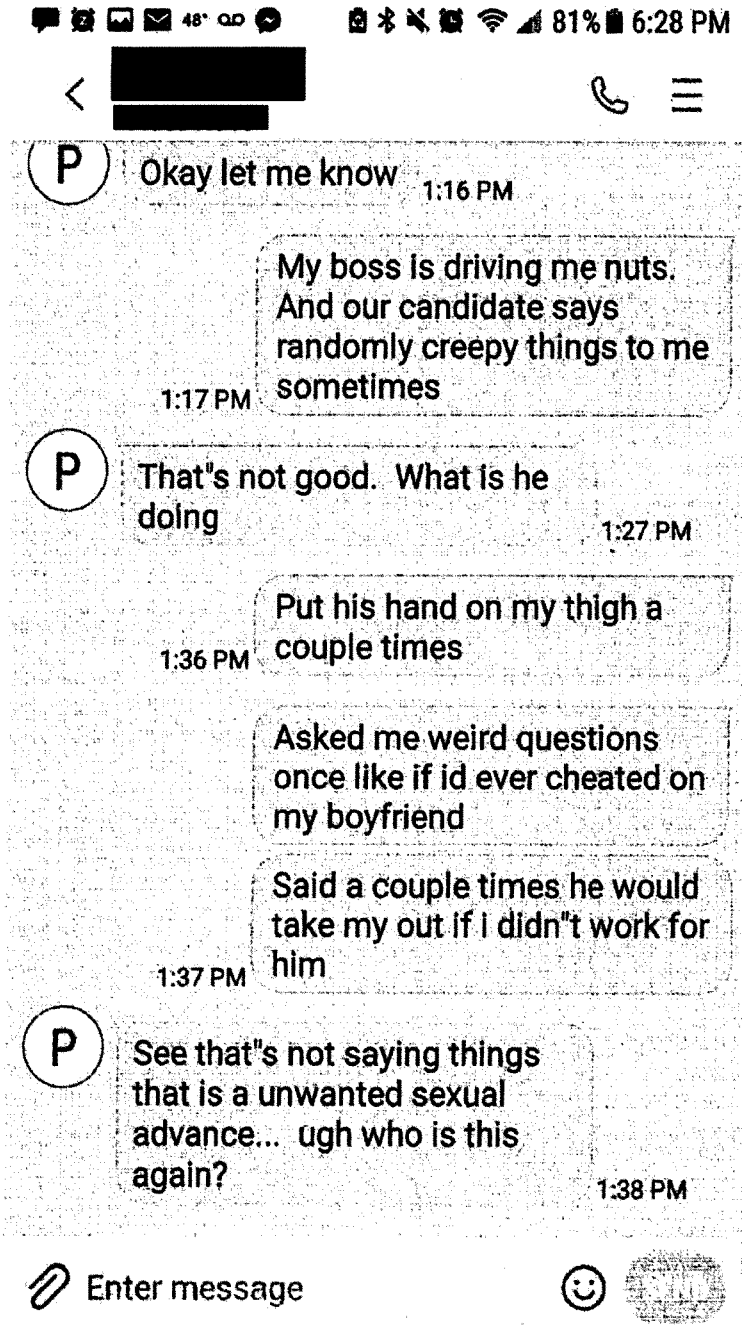
Hmm maybe im going to have to call later on on the weekend. Not sure when they"re letting me off tonight 1:15 PM

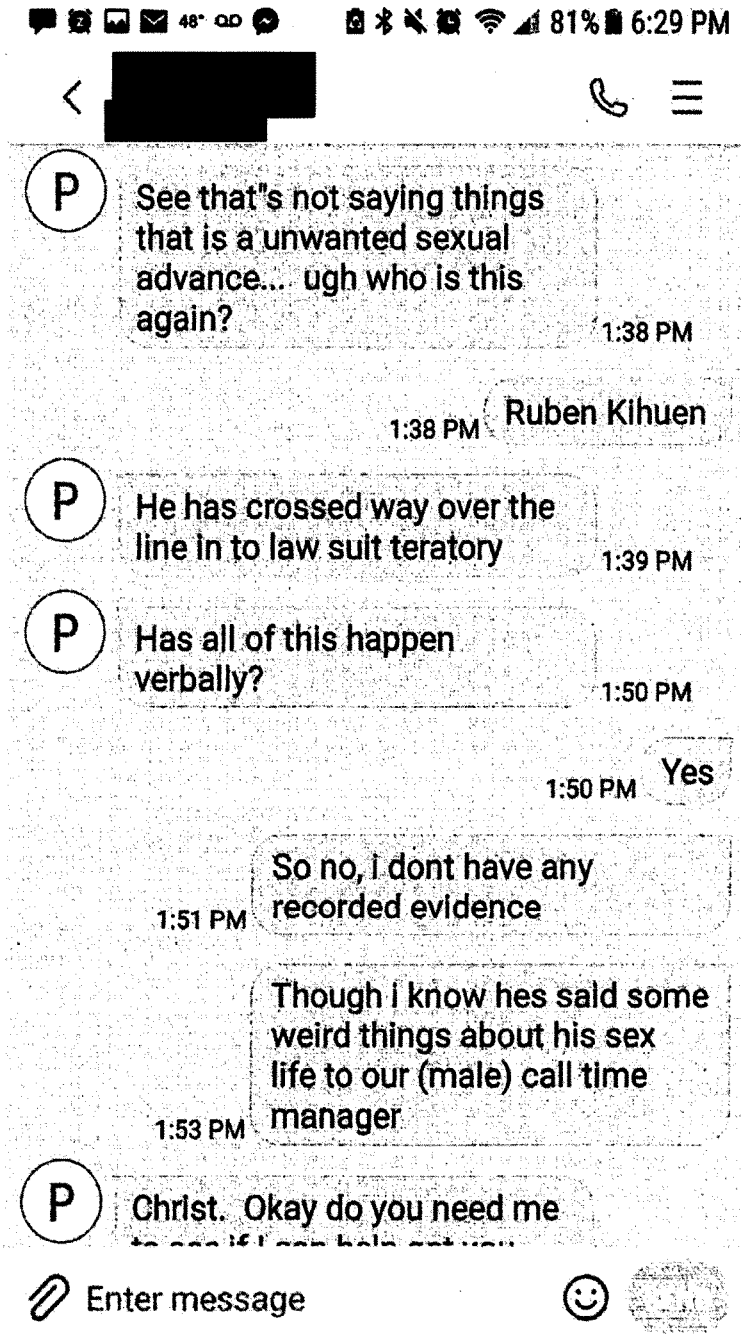
P Okay let me know 1:16 PM

My boss is driving me nuts. And our candidate says randomly creepy things to me sometimes 1:17 PM

P That"s not good. What is he doing 1:27 PM

Enter message


81% 6:28 PM
[redacted]
P
Okay let me know
1:16 PM
My boss is driving me nuts. And our candidate says randomly creepy things to me sometimes
1:17 PM
P
That"s not good. What is he doing
1:27 PM
Put his hand on my thigh a couple times
1:36 PM
Asked me weird questions once like if id ever cheated on my boyfriend
Said a couple times he would take my out if i didn"t work for him
1:37 PM
P
See that"s not saying things that is a unwanted sexual advance... ugh who is this again?
1:38 PM
Enter message


81% 6:29 PM
[redacted]
P
See that"s not saying things that is a unwanted sexual advance... ugh who is this again?
1:38 PM
1:38 PM
Ruben Kihuen
P
He has crossed way over the line in to law suit teratory
1:39 PM
P
Has all of this happen verbally?
1:50 PM
1:50 PM
Yes
1:51 PM
So no, I dont have any recorded evidence
1:53 PM
Though i know hes said some weird things about his sex life to our (male) call time manager
P
Christ. Okay do you need me
Enter message

[redacted]

[redacted]

Alright, is everything okay?

Alright.

To tell you the truth i dont think Ruben's the sharpest knife in the drawer

im going to need to talk to you about something later

i guess for the most part

one of my friends thinks he can transfer me to a job u but i cant really explain at work

Done

[redacted]

Search in Conversation

Edit Nicknames

Change Color

Change Emoji

Notifications

[redacted]

[redacted]

COE.KIHUEN.000027

[redacted]

[redacted] Done

Load more...

[redacted]

01/20/2016 9:56PM

yeah that sounds annoying

i think i need to talk to you about something

[redacted] What's up?

The [redacted] job?

sort of

every once in a while [redacted] says things to me that are really creepy

[redacted]

my old boss i was talking to today thinks i can file a lawsuit if i want to

Options

Search in Conversation

Edit Nicknames

Change Color

Change Emoji

Notifications

Facebook Profile

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Done

[redacted]

[redacted]

my old boss i was talking to today thinks i can file a lawsuit if i want to

What did he say?

sometimes tells me I'm very attractive

a couple times said he'd like to take me on a date if i didnt work for him

finds weird excuses to touch me sometimes

Yeah, that's really uncool

super unprofessional

Options

Search in Conversation

Edit Nicknames

Change Color

Change Emoji

Notifications

Facebook Profile

[redacted]

[redacted]

Done

[redacted]

Yeah, that's really uncool

super unprofessional

[redacted] I'm sorry

I know that, but being honest i think filing a lawsuit is a bit of an overreaction

Its not like i feel physically in danger or it happens like all the fucking time

[redacted] It's just often enough to be really creepy?

yeah it mostly only happens if i have to be alone with him, which is not that often

[redacted] Do you think he'd cut it out if you mentioned that it was making you really uncomfortable?

Options

Search in Conversation

Edit Nicknames

Change Color

Change Emoji

Notifications

Facebook Profile

[redacted]

[redacted]

[redacted]

Done

[redacted]

i dont know, like you kind of wonder if its not super obvious in the first place

plus its not like this is some single guy hoping to date me that i need to turn down, this is a guy with a longtime girlfriend

True...

[redacted] Has this happened before with bosses?

sorry my old boss just called me

[redacted] No worries

umm i mean there were a couple times someone i worked with had a crush on me and i was not interested and it was just weird

like that guy i told you about in [redacted]

Options

Search in Conversation

Edit Nicknames

Change Color

Change Emoji

Notifications

Facebook Profile

[redacted]

[redacted]

[redacted]

Done

[redacted]

like that guy i told you about in [redacted]

Right

but he never did anything to like make me feel uncomfortable

Options

Search in Conversation

Edit Nicknames

Change Color

Change Emoji

Notifications

Facebook Profile

[redacted]

[redacted]

Not quite the same as your boss though

no, i mean thats a different level of weird

because you cant talk to anyone

and this is a campaign, there's no HR department

Well thanks for talking to me about it

35° 93% 8:42 AM

[redacted]

Ok thanks. Ill probably call you around 11am est 3:47 PM

J Okay perfect 3:47 PM

Thursday, March 31, 2016

This is probably a weird question, but have you ever known of candidates like trying to hit on their staff? 11:33 AM

J Oh Jesus. It certainly happens but usually becomes a huge problem.... 12:59 PM

I mean it would be one thing if it was like some single guy i needed to tell i have a boyfriend and I"m not interested, but this guy has a longtime girlfriend so i think he has some deeper issues 8:12 PM

Monday, April 4, 2016

Hey just letting you know I"m

Enter message

# Exhibit 6

[redacted]
Ruben Kihuen for Congress
P.O. Box 458
Las Vegas, NV 89125

April 5th, 2016

Dear [redacted]

I am writing to inform you that I will be resigning from my position as [redacted] for Ruben Kihuen for Congress. My last day will be April 18th, 2016.

Please let me know of any arrangements for handing over outstanding work and responsibilities. As discussed, I will also complete an exit memo outlining finance responsibilities.

Sincerely,

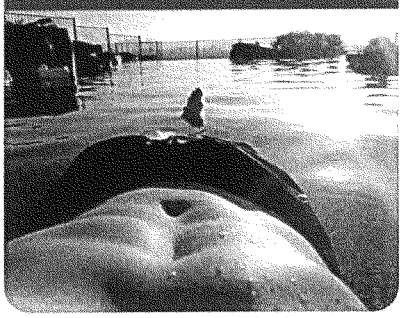
[redacted]

# Exhibit 7

Home (14) [redacted]

[redacted]

Sounds extremely exciting. Would've much prefer to do that than this...



...you and me both.

Any plans tonight?

St Patrick's. day party!

You can't reply to this conversation. More options.

# Exhibit 8

Home (14) [redacted]
Facebook

[redacted]

03/12/2013, 1:43 PM

So far, so good! You look beautiful-- as always. 😉

03/12/2013, 3:27 PM

Wow... Laying down the charm.
But thanks!

03/15/2013, 9:39 AM

GM...I apologize if I said anything last night that I shouldn't have. This is why I hardly ever drink. 🙁 I'm suffering here...

03/15/2013, 11:48 AM

Love the ponytail look 🙂

03/15/2013, 12:11 PM

Thanks!

03/15/2013, 12:17 PM

You can't reply to this conversation. More options.

Home (14) [redacted]

Facebook

[redacted]

Thanks!

03/15/2013, 1:20 PM

Simply beautiful. Any plans this weekend?

03/15/2013, 1:13 PM

It's okay, it's worked out thus far.
A lot of working out hopefully.
Making up for lost time yknow?
How about yourself?

03/15/2013, 3:04 PM

It's worked out very well! No visiting rural towns this weekend? I have a town hall meeting tomorrow morning. Aside from that, spend time with the family, sleep, eat good food, work out and play soccer! Getting ready to board plane. If I stay in CC on weekends would

You can't reply to this conversation. More options.

Home (14) [redacted]

Facebook

[redacted]

work out and play soccer!

Getting ready to board plane. If I stay in CC on weekends would you hang out with me?

Only if you didn't get drunk and stupid.

I wasn't drunk, just buzzed. But I promise to be good and behave...and not speak my mind.

Oh, okay. My mistake. And hey, don't let me stop you from speaking your mind.

Just walked out of airport. Weather here is AMAZING. Pool time? Don't be jealous.

You can't reply to this conversation. More options.

# Intentionally Left Blank

Home (14) [redacted]
Facebook
[redacted]

03/16/2013, 9:03 PM

St Patrick's. day party!

Fun! No drinking and speaking your mind, k?

03/16/2013, 10:44 PM

Well.. You know how difficult that is for me, but I'll try. Big plans for you?

03/16/2013, 11:31 PM

Lol. Just finished having sushi. On my way home to lie on my bed and watch a movie. Wanna join?

03/17/2013, 01:17 AM

Was just kidding....don't get mad, [redacted]

I like my bed ALL to myself.

You can't reply to this conversation. More options.

Home (14) [redacted]

[redacted]

Was just kidding....don't get mad, [redacted]

I like my bed ALL to myself.

Haha I don't get mad.. butDEAL!

Yay! I'll even let you pick the movie 😉

No no... I think you misread. Deal for you to like your bed all to yourself.

Hahahaha! Hey, it was worth a shot! 😉

Haha well I appreciate your enthusiasm.

You can't reply to this conversation. More options.

Home (14) [redacted]

[redacted]

You look extra beautiful this morning...

Thanks!

How was your movie?

Watched one of my all-time favorite movies The Godfather. Great movie, just needed company. 😞

Never seen it. Can't enjoy the company of yourself, huh?

Never seen The Godfather??? Unacceptable. That's it, we

You can't reply to this conversation. More options.

Home (14) [redacted]
Facebook

[redacted]

03/13/2013, 1:02 PM

Never seen The Godfather??? Unacceptable. That's it...we gotta have movie night! 😊 It's a classic. I enjoy being alone, but much rather enjoy the presence of a beautiful lady-- especially while watching a movie. 😀

03/13/2013, 1:07 PM

Sure... And hey! I can't argue with that.

03/13/2013 1:09 PM

Love the hair right now...my second favorite style on you! 😉

.... Can you say something bad about me for a change?

Um, only if you stop being so beautiful...

You can't reply to this conversation. More options.

Home (14) [redacted]
Facebook

[redacted]

Um, only if you stop being so beautiful...

Lol...jk. Ok, I'll stop before I get in trouble! You are beautiful though, and I don't have anything bad to say. You're a very classy woman.

Does that line work for you often? 😀
But thank you! I'm glad you think so.

My first time using it... you tell me if it's working. 😉 I can tell you're a woman of class, principle, honesty, integrity...and even fashion! Must treat a woman like you with utmost respect.

You can't reply to this conversation. More options.

# Intentionally Left Blank

Home (14) [redacted]
Facebook
[redacted]

*Munchies

Haha wow thanks....

Btw...LOVED your casual look yesterday! So gorgeous. 😃

Hahah... It never ends does it?

Not as long as you're in my life 😉

So that's all I have to do...? 😉

All you had to do was smile! 😉

No no... To get rid of you.

Hahaha! Or just not be beautiful anymore 😃

Haha! I'll see what I can do. Big

You can't reply to this conversation. More options.

Home (14) [redacted]
Facebook

[redacted]

Hahaha! Or just not be beautiful anymore 🙂

Haha! I'll see what I can do. Big plans for the weekend?

03/27/2013, 1:45 PM

A couple of events on calendar. But definitely catch up on sleep, go swim, play some soccer and eat sushi! 🙂 You?

Oh exciting. Have to get your sushi fix in Vegas huh? Can't find any decent in CC? And my plans are fairly similar except no soccer.

03/27/2013, 2:17 PM

Yep...no place like LV for sushi. Heard CC sushi sucks. You can come play soccer with me...I'll

You can't reply to this conversation. More options.

Home (14)

[redacted]

Facebook

[redacted]

03/22/2013, 2:53 PM

Yep...no place like LV for sushi. Heard CC sushi sucks. You can come play soccer with me...I'll teach you how to play! 😉

Hahha... I don't think that's a good idea.

I can teach you soccer and you can teach me how to swim! 😉

You probably swim better than I do...

Then I'll volunteer to give you CPR if anything happens 😉

Yeah you would volunteer to do that...

You can't reply to this conversation. More options.

# Exhibit 9

Home (14) [redacted]
Facebook

[redacted]

03/09/2013 10:03 PM

Nothing exciting happened in CC last night??? Unbelievable. I'm sure it's bumping tonight. Lol. [redacted] doesn't sound fun at all. Can you be my [redacted] Your [redacted] must be keeping you quite busy-- now I know why you've never stopped by and visited my office. Maybe if I offer to help you'll stop by???
My story as to how I became involved in politics and eventually ran for office at 25 is quite long. I'll share with you in person when we talk. In a nutshell: I had a career-ending injury 3 months before starting my professional soccer career, so then I went back to school and got involved in public service. So, no, I never planned on been active with the party--

You can't reply to this conversation. More options.

Home (14) [redacted]

[redacted]
let alone run for office.
So what are the post-session plans of the most mysterious and intriguing person in CC? 😉
Don't have too much fun in CC tonight!

Yeah, I know, surprising. [redacted] not fun?? I think you're mistaken... and y'know, I was going to offer; however I was under the assumption that [redacted] already held the role of [redacted] to Senator Kihuen? How devastating, sorry to hear that happened to you. It seems as though it's working out well for you though, yeah?
As for after session, I'm heading back down to [redacted] and then to [redacted]
What about yourself?

You can't reply to this conversation. More options.

Home (14) [redacted]
Facebook

[redacted]

Arizona for the bar in August.
What about yourself?

03/10/2013, 12:53 AM

[redacted] my [redacted] ???
Lol...silly. Yes, I def can't complain; been blessed in many other ways. You're moving back to [redacted] ??? [redacted] ..we can sure use your talents here. I plan on returning home to work and prepare for 2014 election. So since you replied at 11:33pm, I'm assuming you're not out enjoying all the excitement and entertainment of CC?!?!

Yeah! You've got to take it where you can get it, I'm sure he'd at least always have your best interest in mind!
And no, just [redacted]

You can't reply to this conversation. More options.

# Exhibit 10

Home (14) [redacted]

[redacted]

03/23/2013, 1:18 PM

Too cold for pool this weekend. Enjoy your weekend in LV!

Yah! Right?? so depressing. Thank you! You as well

Good morning, [redacted] How was your weekend in LV? I apologize in advance for asking over FB, but can I please have your phone number? Need to talk to you about important matters relating to our state.

It was wonderful thank you for asking. How was yours? Wow, even throwing down the please. [redacted]

You can't reply to this conversation. More options.

# Exhibit 11

11:20 AM 100%

Messages RK Details

Aug 12, 2014, 10:51 PM

Aug 13, 2014, 1:04 PM

You're so funny!

When are you inviting me over to your place???

11:20 AM 100%

Messages RK Details

Probably never!!

Haha!

Sorry!!

Hahaha!

Aug 13, 2014, 7:14 PM

# Intentionally Left Blank

11:40 AM 97%

Messages RK Details

Okay. :)

Aug 26, 2014, 8:47 PM

High five???

Nope!! :)

What's your address?
I'm coming over

1600 Pennsylvania Ave.

That was a good one right?

11:40 AM 97%

Messages RK Details

Our future home ;)

No thanks

Aug 27, 2014, 8:11 PM

COE.KIHUEN.002302

11:40 AM 97%

Messages RK Details

Wake up!!

I'm awake!!

I'm coming over

Oh! I mean I'm asleep

Hahahaha!

Aug 28, 2014, 11:41 AM

11:40 AM 97%

Messages RK Details

Wake up!!

I'm awake!!

I'm coming over

Oh! I mean I'm asleep

Hahahaha!

Aug 28, 2014, 11:41 AM

11:40 AM 97%

Messages RK Details

Aug 28, 2014, 11:41 AM

I'm assuming that was a high five!

Well, you assumed wrong!

Haha!

Aug 29, 2014, 1:52 PM

# Intentionally Left Blank

11:43 AM 95%

Messages RK Details

That was good

Sep 5, 2014, 8:05 PM

Bored?! On a Friday night??

Yes...I'm coming over

Lol no thanks. My house isn't accepting guests at the moment

Hahaha. Ouch.

# Intentionally Left Blank

11:46 AM 95%

Messages RK Details

You're funny kid

And all yours

No thanks

Wake up!!

I'm coming over

Oh too late!
I'm asleep.

We can...all night long

11:46 AM 95%

Messages RK Details

Wake up!!

I'm coming over

Oh too late!
I'm asleep.

We can...all night long

No thanks

Sep 16, 2014, 2:58 PM

WAKE UP!!

# Intentionally Left Blank

11:53 AM 92%

Messages RK Details

Feb 17, 2015, 10:13 PM

yeah! I stayed for twenty minutes and split!

Booo...I wanted to see you

Sorry

Can I come spend the night?

No!!

COE.KIHUEN.002378

# Intentionally Left Blank

11:54 AM 91%

Messages RK Details

You got [redacted]!

But he doesn't look good in dresses like the one you wore today 😞

Take that up with your date!

😫

😆

Wake up!!!

I'm up!!!

What's your room number?

0

COE.KIHUEN.002386

11:54 AM 91%

Messages RK Details

0

Aren't you supposed to be having a good time,!!?

That's what I'm trying to do!

Well then why are you texting me?!

Because I can't stop thinking of you. At what time do you usually go to sleep?

Now!

11:54 AM 91%

Messages RK Details

Now! 😴😴😴

Can I come cuddle
before you go to bed???

No.

Wake up!!!

I'M UP

Come!!!

Whoops! Texting in my

COE.KIHUEN.002388

**Intentionally Left Blank**

11:57 AM 90%

Messages RK Details

Mar 24, 2015, 1:58 PM

Can I come spend the night tonight?

Gonna go with no

Mar 28, 2015, 4:29 PM

OMG congrats on the big announcement! What a surprise! 👏😱

Thank you! :) Gotta stay focused on legislative

# Intentionally Left Blank

11:58 AM 90%

Messages RK Details

Mar 30, 2015, 5:10 PM

💜

Mar 31, 2015, 1:41 PM

Can I see softly bite your lower lip?

Me? Not today, sorry. I'm all booked up did soft lip bites today!

Got any time tonight?

😊

Let me check my schedule!

Nope!

Preferably late at night... at your place

11:58 AM 90%

Messages RK Details

Nope!

Preferably late at night...at your place

I'll make the sacrifice and come to your place

No no you stay at your place

I insist

Apr 2, 2015, 2:20 PM

# Exhibit 12

11:40 AM 97%

Messages RK Details

slipped my mind!

+ + + = 

+ + =

Persistence will get me somewhere someday

Aw! What a great attitude to have!

Big plans for the weekend?

11:40 AM 97%

Messages RK Details

Big plans for the weekend?

You and I together all weekend! 😆

You're such an optimist kid!

😊

Can I get some credit for persistence????

Oh yah! Like, a ton of credit.

A delicious make out kiss at least??? 😊

# Intentionally Left Blank

12:04 PM 88%

Messages RK Details

I'm not convinced

Come to my office

I'm busy!

I'll keep you busy too

Oh really? Need some extra help around the office? gets pretty hectic in the last week, but man, I've already got a gig. Maybe try a temp agency?

Hahahahaha!

I just want to make out to you...on my desk

12:04 PM 88%

Messages RK Details

I just want to make out to you...on my desk

No thanks

Are you still in cmte?

Yep!

You can come watch it here in my office

It's done now!

Come by!

# Exhibit 13

11:43 AM 95%

Messages RK Details

So responsible. I can think of other exciting things you could be doing right now 😆

Packing? Yeah I should be

😒

😃

👫

Can I come cuddle with you on your bed? 😆

No thanks. I don't like cuddling.

"Cuddling"

11:43 AM 95%

Messages RK Details

"Cuddling"

Kidding...eeww who would want to cuddle with you

Nobody.

Me!!! Me!!! Me!!!

Lolol no thanks

Hahaha! How many times have you told me no now...like 4,456,221 times!

I say no thanks- so I mean, at least I'm polite?

11:43 AM 95%

Messages RK Details

Hahaha! How many times have you told me no now...like 4,456,221 times!

I say no thanks- so I mean, at least I'm polite?

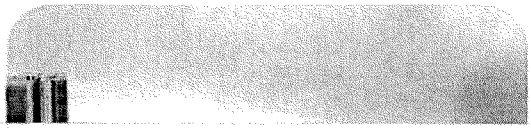
😤

😞

😃

Sep 7, 2014, 4:32 PM

Come hang out with me on my balcony...rainy day in Vegas :)

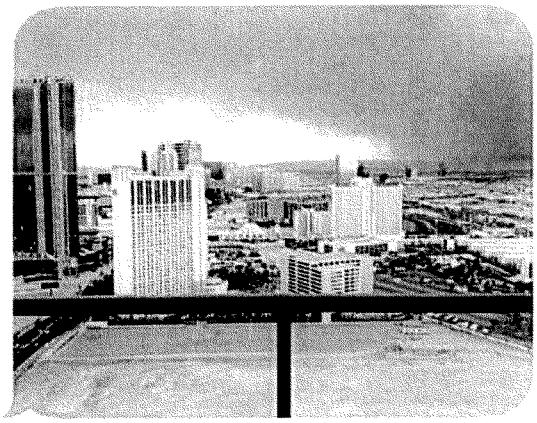


# Exhibit 14

11:44 AM 95%

Messages RK Details

Come hang out with me on my balcony...rainy day in Vegas :)



No thanks.

It's sunny in
Why would I go to rainy vegas?

Because its me and because its you :)

Nothing like making

COE.KIHUEN.002330

11:44 AM 95%

Messages RK Details

Nothing like making passionate love with the window open listening to the rain

Haha no thanks. I hate the rain.

Hate love making too?

Eh. Depends who it's with.

Hate it with most, yah.

That makes sense. You just need the right one

Yah. Someday he'll

11:44 AM 95%

Messages RK Details

That makes sense. You just need the right one

Yah. Someday he'll come along...

Haha

Sep 8, 2014, 1:03 PM

# Exhibit 15

11:49 AM 93%

Messages RK Details

Just started and I'm bored out of my mind already! Come entertain me 😁

Nahhh

Think anyone will mind if you come sit on my lap?

I'll take that as a no 😆

That's a weird emoji. What emotion is it conveying?

11:49 AM 93%

Messages RK Details

That's a weird emoji. What emotion is it conveying?

It wasn't the response I wanted. It's like "ouch!"

I was looking more for this response: 😍

😬

Hahaha. You'll be waiting a longggggg time for that response

Hahahaha! 😣 😔 😞 😢

😄

# Intentionally Left Blank

11:52 AM 92%

Messages RK Details

Feb 16, 2015, 1:20 PM

How was your weekend?

You should come sit on my lap

It was good... Yours? I'm good. Got a great seat already. Thanks

Mine was busy. Didn't rest much. I have more cushion than those seats

Busy huh? Back in LV? Idk.... Those plastic

11:52 AM 92%

Messages RK Details

Idk.... Those plastic chairs are pretty comfortable....

Feb 16, 2015, 5:05 PM

What!?

You didn't come lobby me today

Sorry!! ()

Feb 16, 2015, 7:01 PM

What!!?

Nothing...just needed

11:52 AM 92%

Messages RK Details

Nothing...just needed your attention. 😬

Why!?

😬

Just because

😬

Ohhh.

I'm at an event bored out of my mind, actually. I'd rather be with you

I am pretty cool, huh? 😏

Yeah, just a little

# Intentionally Left Blank

11:54 AM 91%

Messages RK Details

Why sad!?

Because you haven't been to my office in forever

6 days?

That's waaay too long

Cmon!

It is lot

Not*****

Come say hi

# Intentionally Left Blank

11:57 AM 90%

Messages RK Details

Mar 4, 2015, 11:09 AM

Come sit on my lap

I'm good

I know you are. That's why

COE.KIHUEN.002401

# Exhibit 16

11:55 AM 91%

Messages RK Details

Hahah!! Have fun in LV!

Feb 24, 2015, 1:34 PM

Nice ass

Thank you!!

(There's no puking face)

# Intentionally Left Blank

11:58 AM 90%

Messages RK Details

Apr 6, 2015, 2:14 PM

Your ass looks amazing in those pants

May 13, 2015, 9:46 AM

# Exhibit 17

11:56 AM 91%

Messages RK Details

Feb 24, 2015, 5:39 PM

Where are you???

Working

What color are your panties?

11:56 AM 91%

Messages RK Details

panties?

Makes me sad

Why!?

My day can't go on without knowing

Welp. Looks like your days over?

11:56 AM 91%

Messages RK Details

days over?

Haha. Ouch...how mean

Hahaha oh stop

Just tell me

I'm good

I know you are

Feb 24, 2015, 9:13 PM

What!?

# Exhibit 18

11:57 AM 90%

Messages RK Details

Mar 28, 2015, 4:29 PM

OMG congrats on the big announcement! What a surprise! 👏😱

Thank you! :) Gotta stay focused on legislative duties for now, but it's going to be a long campaign season. I'm in it to win it!

Mar 30, 2015, 3:51 PM

Come sit on my lap

I've got a full schedule of lap sitting today. ¯_(ツ)_/¯

No can do.

You look fabulous in black 😍

11:57 AM 90%

Messages RK Details

black 😍

Thank you! 👏 it's slimming. I gotta watch my figure yknow.

But I'm sure you look even better naked

😬

Me? Oh yah. I totally do.

I can only imagine 😏

I apologize...can't talk to you like this anymore.

I'm officially a congressional candidate again.

11:57 AM 90%

Messages RK Details

Thank goodness!!!

Mar 30, 2015, 9:16 PM

Mar 31, 2015, 1:41 PM

# Exhibit 19

11:20 AM 100%

Messages RK Details

Aug 6, 2014, 2:04 PM

Absolutely beautiful.

Wrong person? You must be prepping your Thursday lunch date?

Aug 6, 2014, 3:19 PM

Ha! Nope...you,
Simply gorgeous.

Haha thanks.

Aug 10, 2014, 9:54 PM

11:20 AM 100%

Messages RK Details

Aug 11, 2014, 10:18 AM

Aug 12, 2014, 10:51 PM

11:20 AM 100%

Messages RK Details

Aug 12, 2014, 10:51 PM

Aug 13, 2014, 1:04 PM

You're so funny!

When are you inviting me over to your place???

11:20 AM 100%

Messages RK Details

Probably never!! 😀

Haha! 😞

😫

Sorry!!

💝

✋

Hahaha! 😘

Aug 13, 2014, 7:14 PM

👫

👩 👩

😞

COE.KIHUEN.002289

# Exhibit 20

11:45 AM 95%

Messages RK Details

Thanks! Wish you were here

Sep 10, 2014, 4:07 PM

Smile!

Come sit with me

11:45 AM 95%

Messages RK Details

No thanks!

I'm allergic!

I'm allergic!

+ + + = $$
$

Ahhaha

11:45 AM 95%

Messages RK Details

$

Ahhaha

Sep 11, 2014, 9:17 AM

Yah I'm pretty ripped,

# Exhibit 21

11:45 AM 95%

Messages RK Details

You do know there are more emojis than the first page of faces, right?

Hahaha!

?

On the ground?

# Exhibit 22

11:18 AM 100%

Messages RK Details

;) Don't think so. You?

Uh you know I'd never miss an after party kid!

Have fun! ;)

Thanks. You have fun too..?

And behave!

;)

Unless you're with me :)

Was jk...don't get scared

Kid!

11:19 AM 100%

Messages RK Details

I wasn't scared just ignoring you. ;)

As usual

Send me a pic

Uh of?

You :)

I'll pass. :)

That's ok. I'll never forget how beautiful you looked tonight

Oh gosh.

You always look beautiful. But tonight,

# Exhibit 23

11:46 AM 94%

Messages RK Details

Lets grab lunch this week or next

Next.

Cool! Or I can come over to your place tonight or any night! To discuss important pieces of legislation, of course

Hahah!

Or! We could go to el sombrero.

Sep 16, 2014, 10:11 PM

Wake up!!!

# Exhibit 24

11:42 AM 96%

Messages RK Details

When can I see you again...I mean, meet to discuss important legislative matter?

Haha

My schedule is always open to discuss important legislative matters

Sep 4, 2014, 5:46 PM

Sep 4, 2014, 9:37 PM

11:42 AM 96%

Messages RK Details

Sep 4, 2014, 9:37 PM

No thanks

Keep it

That one too

That one too

I know...

# Exhibit 25

Body: I don't know of anyone who is going to be on the record. In a weird turn of events, [redacted] brought up Ruben last night and said [redacted] told him there would be more stories??

Timestamp: Date: 12/7/2017 1:32:07 PM
From: [redacted]
Body: But yeah I'm ready to do it

Timestamp: Date: 12/7/2017 1:32:44 PM
From: [redacted]
Body: I'm proud of you

Timestamp: Date: 12/7/2017 1:35:08 PM
From: [redacted]
Body: I'm kind of like mindfucking myself though just thinking about how much we joked about him and how those jokes could really discredit me (even though he never knew about them)

Timestamp: Date: 12/7/2017 1:35:39 PM
From: [redacted]
Body: I know. I was thinking the same thing

Timestamp: Date: 12/7/2017 1:36:03 PM
From: [redacted]
Body: It's like it was a joke until it wasn't anymore. And I have texts that I sent to my friends about it after he started talking to me proving that as soon as it because real I became upset about it

Timestamp: Date: 12/7/2017 1:36:43 PM
From: [redacted]
Body: It was harassment even if we tried to laugh it off

Timestamp: Date: 12/7/2017 1:36:46 PM
From: [redacted]
Body: What did [redacted] and [redacted] say in the meeting?

Timestamp: Date: 12/7/2017 1:37:18 PM
From: [redacted]
Body: They basically told me that they didn't think my story is that bad and that I need to weigh if it's worth it or not

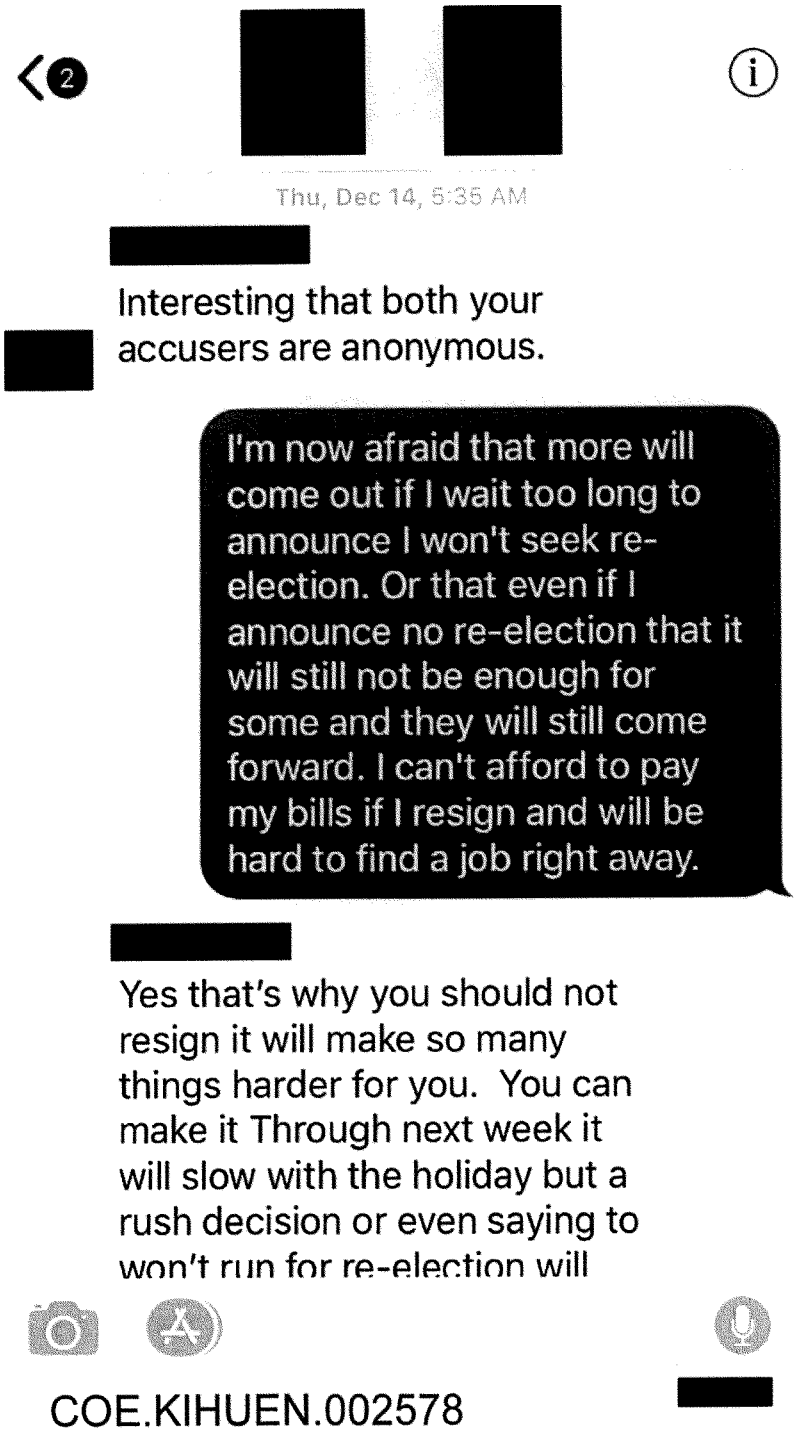
Timestamp: Date: 12/7/2017 1:38:06 PM
From: [redacted]
Body: Ruben told [redacted] (in what seems like a kind of threatening way) on Tuesday "there's a difference between flirting and harassment"

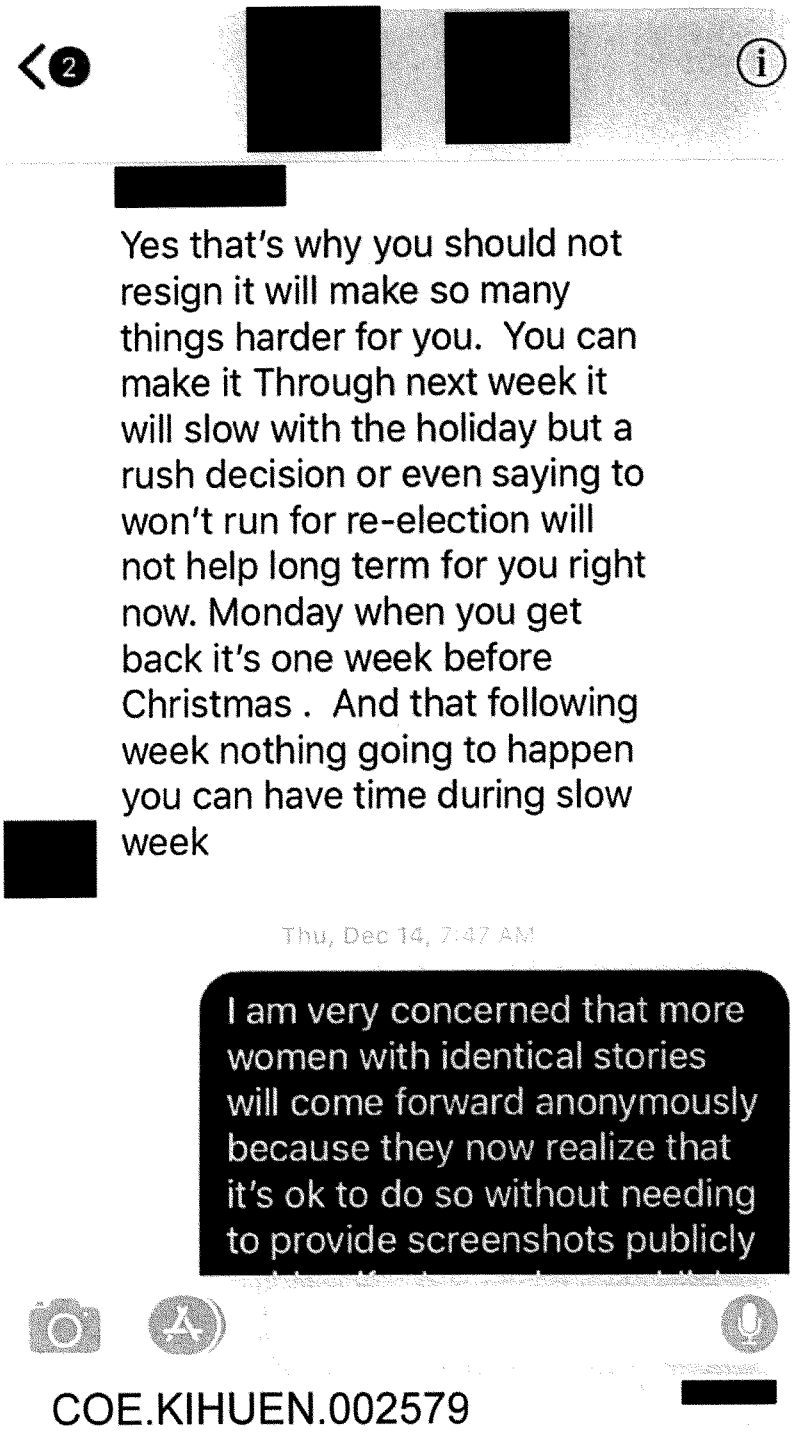
Timestamp: Date: 12/7/2017 1:40:40 PM
From: [redacted]
Body: I think he will try to discredit me by saying it was flirting. So when I talk to the reporter I'm going to make sure to underscore how uncomfortable I was in every interaction and how I felt like I couldn't shut it down cause of the power dynamic. And I think the texts I have prove that

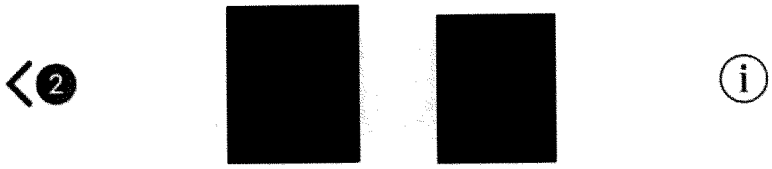


[redacted]

# Exhibit 26


2
Thu, Dec 14, 5:35 AM
Interesting that both your accusers are anonymous.
I'm now afraid that more will come out if I wait too long to announce I won't seek re-election. Or that even if I announce no re-election that it will still not be enough for some and they will still come forward. I can't afford to pay my bills if I resign and will be hard to find a job right away.
Yes that's why you should not resign it will make so many things harder for you. You can make it Through next week it will slow with the holiday but a rush decision or even saying to won't run for re-election will

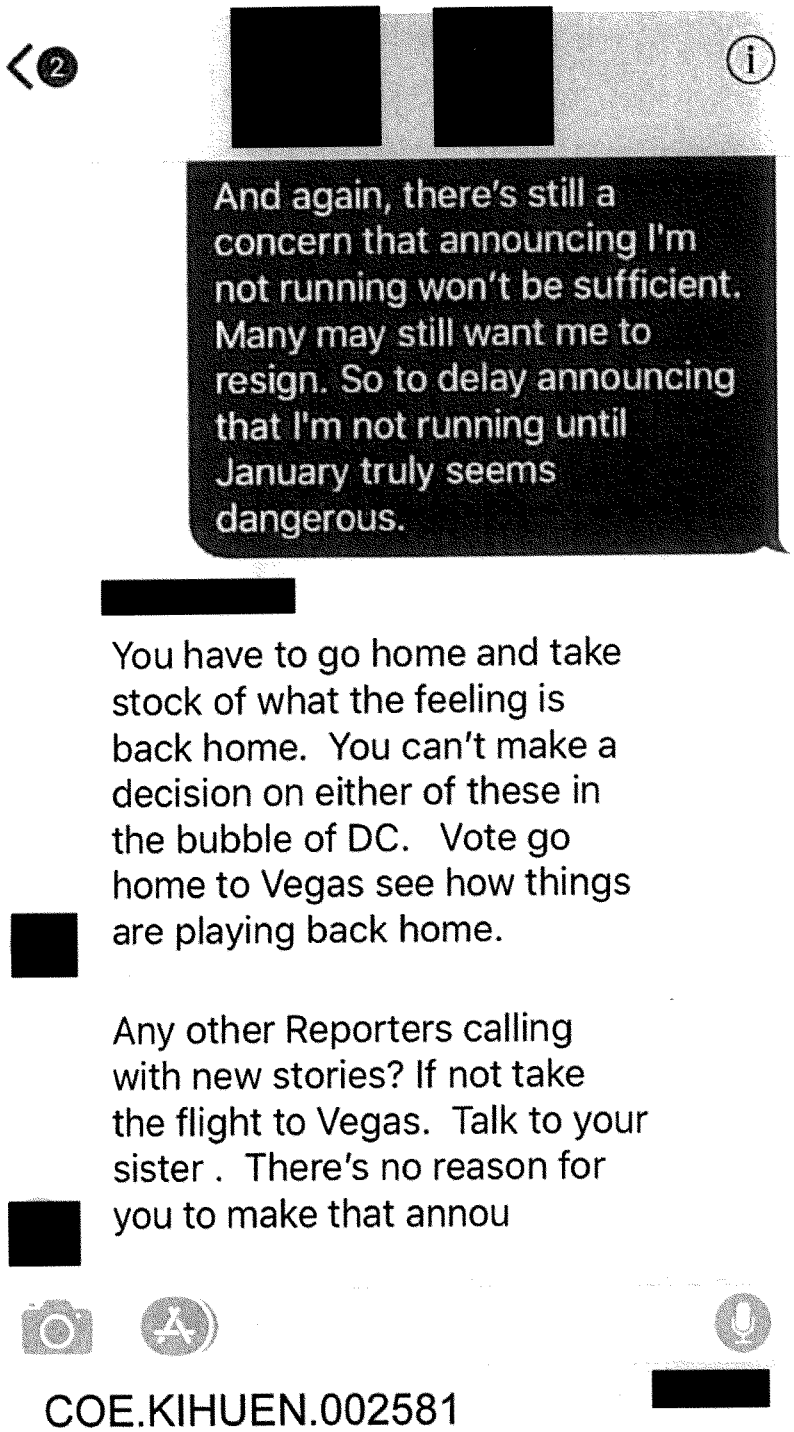

2
Yes that's why you should not resign it will make so many things harder for you. You can make it Through next week it will slow with the holiday but a rush decision or even saying to won't run for re-election will not help long term for you right now. Monday when you get back it's one week before Christmas . And that following week nothing going to happen you can have time during slow week
Thu, Dec 14, 7:47 AM
I am very concerned that more women with identical stories will come forward anonymously because they now realize that it's ok to do so without needing to provide screenshots publicly



I am very concerned that more women with identical stories will come forward anonymously because they now realize that it's ok to do so without needing to provide screenshots publicly or identify themselves publicly.

My reputation has been hurt already, but it's possible — right now — for many people to view this as "well he was a young, single guy - what do you expect?" If more women come out, however, people will turn on me and say I was a playboy who was disrespectful and just used and abused women. That's a huge risk.

And again, there's still a concern that announcing I'm not running won't be sufficient.


2
And again, there's still a concern that announcing I'm not running won't be sufficient. Many may still want me to resign. So to delay announcing that I'm not running until January truly seems dangerous.
You have to go home and take stock of what the feeling is back home. You can't make a decision on either of these in the bubble of DC. Vote go home to Vegas see how things are playing back home.
Any other Reporters calling with new stories? If not take the flight to Vegas. Talk to your sister . There's no reason for you to make that annou

# APPENDIX B

SANDLER REIFF
SANDLER REIFF LAMB
ROSENSTEIN & BIRKENSTOCK, P.C.

1090 Vermont Ave NW, Suite 750
Washington, DC 20005
www.sandlerreiff.com
T: 202-479-1111
F: 202-479-1115

November 2, 2018

**Via E-Mail**

Thomas A. Rust, Esq.
Staff Director and Chief Counsel
Committee on Ethics
U.S. House of Representatives
1015 Longworth House Office Building
Washington, D.C. 20515-6328

**Re: In the Matter of Allegations Relating to Representative Ruben Kihuen**

Dear Mr. Rust:

Attached is the Response of our client, Rep. Ruben Kihuen (D-Nev.), to the Report of the Investigative Subcommittee issued on September 26, 2018, in the above-referenced matter (the "ISC Report"). Congressman Kihuen respectfully requests that his response be included in any report of the full Committee to the House in this matter.

In addition to his Response, the Congressman objects to the finding, in the ISC Report, that he actually violated clauses 1 and 2 of House Rule XXIII, and requests that either the ISC or the full Committee make clear that it has not adopted any such finding. Rule 19(f) provides that if an ISC determines that "a violation of the Code of Official Conduct…has occurred," the ISC is to adopt a Statement of Alleged Violation. The ISC in this case has not adopted any Statement of Alleged Violation-- as confirmed by the letter from the Committee to the Congressman dated October 2, 2018, indicating that the Report is being transmitted pursuant to Committee Rule 19(g). Had the ISC adopted a Statement of Alleged Violation, the Congressman would of course have been entitled to the procedural protections of Rule XI, clause 3(p) of the Rules of the House and Committee Rules 22 and 23.

The ISC does not have authority to find that the Congressman actually violated the Code of Official Conduct without adopting a Statement of Alleged Violation. We are aware of no precedent for such an action. The only other case relied upon by the ISC as precedent—involving conduct towards an individual who was not an employee of the Member's office or campaign—was *In the Matter of Representative Gus Savage*, H. Rep. No. 101-397, 101st Cong.2d Sess. (1990). In that case, the Committee did *not* find that Rep. Savage had violated any House rule.

The finding was that his conduct was "contrary to the standard of conduct expressed in House Rule XLIII, clause 1." *Id.* at 14.

Accordingly, the Congressman respectfully requests that the ISC Report either be amended to indicate a finding that the Congressman's conduct was contrary to the standard of conduct in clauses 1 and 2 of the Code of Official Conduct and/or violated the spirit of those clauses; or such a clarification should be set out in any report of the full Committee adopting the ISC Report.

Thank you for your time and attention to these matters.

Sincerely yours,

Joseph E. Sandler

**RESPONSE OF U.S. REPRESENTATIVE RUBEN KIHUEN TO REPORT OF INVESTIGATIVE SUBCOMMITTEE**

I appreciate the opportunity to submit a response to the Report of the Investigative Subcommittee. I request that this response be incorporated in the Report of the Committee to the House.

Since graduating from college, I have worked for former Senate Majority Leader Harry Reid (D-NV), for the Nevada Democratic Party and for the College of Southern Nevada. I served for four years as a member of the Nevada State Assembly and for six years years as a member of the Nevada State Senate, becoming Chair of the Standing Committee on Revenue and Economic Development and Majority Whip. I was elected to Congress in 2016 and am completing my first term.

In over a decade of public service as an elected official, not a single allegation of inappropriate behavior towards *any* employee of those offices has ever been previously raised. Nor was there any such allegation ever made against me during my entire professional career working for the Democratic Party, Senator Reid, or the College of Southern Nevada.

The allegations set forth in the ISC Report are extremely painful to me. I now know and understand that the issue before this Committee was not the intentions behind my behavior, but the way my actions were perceived by the women who came forward. Those were experiences they should never have had to endure.

With this understanding, I deeply regret my conduct towards these women and wish to publicly apologize to each of them. I hope that this ISC investigation will make other Members of Congress cognizant of possible unintended consequences of their actions and will improve the working environment for all who interact with Members, whether as employees or not.

Because I was and remain confident that I never intentionally engaged in any such behavior, I welcomed the Committee's investigation. I appreciate the ISC's acknowledgement that "Representative Kihuen appeared voluntarily before the ISC and fully cooperated with the investigation." (ISC Report, p. 2).

While it is not necessary for me to respond individually to each allegation and finding in the ISC Report, I do believe it is important to put some of the findings into context.

**A. D.C. Firm Employee**

The Committee's finding was partially based on interactions with an employee of a Washington, D.C. fundraising firm – an individual who was never employed by my office, by my campaign or in any other way in any capacity (the "D.C. Firm Employee"). I retained the fundraising firm to help raise contributions for my campaign.

Those interactions with this woman were limited to one conversation at the elevator of her office; one email and one text message thanking her for offering to bring me lunch while I was at the firm's office; and a brief conversation at a fundraising event in October 2017, with numerous other people present.

Although I regret that my brief encounters with this individual made her feel "uncomfortable," "surprised" or "dismayed," I still deny that I ever kissed, touched, or pursued a romantic relationship with her.

The ISC Report documents but gives short shrift to statements by D.C. Firm Employee that she had a "plan" to get me to resign and to "blackmail" me. (ISC Report p. 8). The Report notes that the D.C. Firm Employee does not allege any physical contact at the elevator. My only other in-person interaction with this woman was at a widely-attended public event, but no one witnessed or corroborated the allegations that I kissed her.

Despite this, it is now clear that D.C. Firm Employee felt uncomfortable with the limited interactions I had with her. Although I never intended it, I understand that my position as a Member of Congress and a client of her firm made her feel concerned and pressured by my interactions. For this reason, I regret my conduct, and extend my sincere apologies to her.

**B. Campaign Staffer**

With respect to the former Campaign Staffer, my recollection of events differs from her testimony. Nevertheless, based on her statements to the Committee, it is now clear that some comments I made to her, or in her presence, made her feel uncomfortable and disrespected. And for that I do apologize to her.

My former Campaign Manager's testimony that he made me aware of the Staffer's allegations at the time of her departure is both apocryphal and *wholly inconsistent with the Staffer's own testimony.* The former staffer made it clear that she told him that she was leaving the campaign because "her mother was sick and that she found another position closer to her parents, both of which were true statements." (ISC Report, p. 13). This was the reason relayed to me by my former Campaign Manager, who continued to manage my campaign through my election and served as my Chief of Staff in the House of Representatives until his departure in October, 2017.

Now that all of this has been brought to my attention, I sincerely regret that my behavior made her uncomfortable and led to her departure. She never should have been made to feel that way, and I apologize.

**C. Nevada Lobbyist**

As the Committee may be aware, there have been reports of sexual misconduct involving members of the Nevada Legislature towards staff and others. I have never been the subject of any of those reports. Not a single complaint was ever filed against me, publicly or privately, during my service in the State Assembly or State Senate.

There is no doubt that I pursued a romantic relationship and engaged in flirtatious and highly personal text messages with the Nevada lobbyist who was quoted in press accounts and spoke to the Committee. However, I never touched her. Based on the hundreds of texts we exchanged over a two-year period, I was never made aware by her or anyone that my messages were unwelcome or made her feel uncomfortable. As Nevada Lobbyist informed the ISC, "I don't think he realized it was my job to be nice to him." (ISC Report p. 20).

In fact, I certainly did *not* realize at the time that she wanted me to stop any joking and flirtatious messages and felt she could not say so outright because of my position. However, I realize that now. I can now understand and appreciate how she felt and how she experienced those communications. I never intended to be uncomfortable for her and that I never realized were unwanted. For that reason, I regret my conduct towards her and apologize for the discomfort and difficulty it caused her.

**CONCLUSION**

In summary, I do not believe my conduct while serving as a Member of the House—towards the D.C. Firm employee—in any way violated any House rule or failed to reflect creditably upon the House. However, I now appreciate she felt my conduct was inappropriate and for that I sincerely apologize.

Likewise, even though my conduct towards the other two women did not occur while I was a Member of the House, and is outside the Committee's jurisdiction, what matters is how the two women experienced it—and again, their experience was real. It should not have occurred and I am sorry for it. In that regard, I accept the determination of the ISC Report. This has been a humbling experience, and the lessons learned from this will guide my conduct for the rest of my life.

○