



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
SUBPOENA AD TESTIFICANDUM
THE PEOPLE OF THE STATE OF NEW YORK
GREETINGS

TO: Howard Zemsky
Chair Emeritus
Empire State Development
633 Third Avenue, Floor 37
New York, NY 10017

YOU ARE HEREBY COMMANDED, pursuant to Executive Law § 63(8) and § 2302(a) of the New York Civil Practice Law and Rules, to appear and attend before the Special Deputies to the First Deputy Attorney General, on April 5, 2021 at 9:30 AM, or any agreed upon adjourned date or time, at One Liberty Plaza, 38th Floor, New York, New York 10006 to testify in connection with an investigation into allegations of and circumstances surrounding sexual harassment claims made against Governor Cuomo, or any matter which the Attorney General deems pertinent thereto.

TAKE NOTICE that the Attorney General deems the testimony commanded by this Subpoena to be relevant and material to an investigation and inquiry undertaken in the public interest.

TAKE NOTICE that the examination may be recorded by stenographic, videographic and/or audio means.

TAKE FURTHER NOTICE that Your disobedience of this Subpoena, by failing to appear and attend and testify on the date, time and place stated above or on any agreed upon adjourned date or time, **may subject You to penalties and other lawful punishment** under § 2308 of the New York Civil Practice Law and Rules and/or other statutes.

EXHIBIT

1

WITNESS, The Honorable Letitia James, Attorney General of the State of New York,
this 26th day of March, 2021.

By: 

Joon H. Kim
Jennifer Kennedy Park
Abena Mainoo
Special Deputies to the
First Deputy Attorney General
@ag.ny.gov
 ag.ny.gov
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By: /s/ Anne L. Clark

Anne L. Clark
Yannick Grant
Special Deputies to the
First Deputy Attorney General
@ag.ny.gov
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STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

SUBPOENA DUCES TECUM
THE PEOPLE OF THE STATE OF NEW YORK
GREETINGS

TO: Howard Zemsky
Chair Emeritus
Empire State Development
633 Third Avenue, Floor 37
New York, NY 10017

YOU ARE HEREBY COMMANDED, under Executive Law § 63(8) and N.Y. Civil Practice Law and Rules § 2302(a), and/or other statutes, to deliver and turn over to the Special Deputies to the First Deputy Attorney General, on **the 31st day of March, 2021, at 9:30 a.m.**, or any agreed upon adjourned date or time, at One Liberty Plaza, 38th Floor, New York, New York 10006, all documents and information requested in the attached Schedule in accordance with the instructions and definitions contained therein.

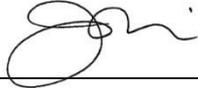
TAKE NOTICE that the Attorney General deems the documents and information commanded by this Subpoena to be relevant and material to an investigation and inquiry undertaken in the public interest.

TAKE FURTHER NOTICE that Your disobedience of this Subpoena, by failing to deliver the documents and information requested in the attached Schedule on the date, time and place stated above or on any agreed upon adjourned date or time, **may subject You to penalties and other lawful punishment** under § 2308 of the New York Civil Practice Law and Rules and other statutes.

EXHIBIT

2

WITNESS, The Honorable Letitia James, Attorney General of the State of New York, this 17th day of March, 2021.

By: 

Joon H. Kim
Jennifer Kennedy Park
Abena Mainoo
Special Deputies to the
First Deputy Attorney General
@ag.ny.gov
@ag.ny.gov
@ag.ny.gov

By: /s/ Anne L. Clark

Anne L. Clark
Yannick Grant
Special Deputies to the
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SCHEDULE

A. General Definitions and Rules of Construction

1. “All” means each and every.
2. “Any” means any and all.
3. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Subpoena all information or Documents that might otherwise be construed to be outside of its scope.
4. “Communication” means any conversation, discussion, letter, email, text message, instant message, memorandum, meeting, note or other transmittal of information or message, whether transmitted in writing, orally, electronically or by any other means, and shall include any Document that abstracts, digests, transcribes, records or reflects any of the foregoing.
5. “Concerning” means, directly or indirectly, in whole or in part, relating to, referring to, describing, evidencing or constituting.
6. “Custodian” means any Person or Entity that, as of the date of this Subpoena, maintained, possessed, or otherwise kept or controlled such Document.
7. “Document” is used herein in the broadest sense of the term and means all records and other tangible media of expression of whatever nature however and wherever created, produced or stored (manually, mechanically, electronically or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail (“email”), instant messages, text messages, Blackberry or other wireless device messages, voicemail, calendars, date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, registers, analyses, code (*e.g.*, C/C++/C#, SQL, JavaScript), algorithms, code repositories (*e.g.*, GitHub), commit messages, audit logs, data or databases (*e.g.*, Oracle, postgres or other SQL or non-SQL systems), plans, manuals, policies, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or Communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices and summaries. Any non-identical version of a Document constitutes a separate Document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia, underscoring, highlighting, marking, commit messages, or any other alteration of any kind resulting in any difference between two or more otherwise identical Documents. In the case of Documents bearing any notation or other marking made by highlighting ink, the term Document means the original version bearing the highlighting ink, which original must be produced as opposed to any copy

thereof.

8. “Entity” means without limitation any corporation, company, limited liability company or corporation, partnership, limited partnership, association, or other firm or similar body, or any unit, division, agency, department, or similar subdivision thereof.
9. “Identify” or “Identity,” as applied to any Document means the provision in writing of information sufficiently particular to enable the Attorney General to request the Document’s production through subpoena or otherwise, including but not limited to: (a) Document type (letter, memo, etc.); (b) Document subject matter; (c) Document date; and (d) Document author(s), addressee(s) and recipient(s). In lieu of identifying a Document, the Attorney General will accept production of the Document, together with designation of the Document’s Custodian, and identification of each Person You believe to have received a copy of the Document.
10. “Identify” or “Identity,” as applied to any Entity, means the provision in writing of such Entity’s legal name, any d/b/a, former, or other names, any parent, subsidiary, officers, employees, or agents thereof, and any address(es) and any telephone number(s) thereof.
11. “Identify” or “Identity,” as applied to any natural person, means and includes the provision in writing of the natural person’s name, title(s), position(s), any aliases, place(s) of employment, telephone number(s), email address(es), mailing addresses and physical address(es).
12. “Person” means any natural person, or any Entity.
13. “Sent” or “received” as used herein means, in addition to their usual meanings, the transmittal or reception of a Document by physical, electronic or other delivery, whether by direct or indirect means.
14. “Subpoena” means this subpoena and any schedules or attachments thereto.
15. The use of the singular form of any word used herein shall include the plural and vice versa. The use of any tense of any verb includes all other tenses of the verb.

B. Particular Definitions

1. “Complainant” means Charlotte Bennett, Lindsey Boylan, Brittany Commisso, Karen Hinton, Ana Liss, Anna Ruch, and any other individual who has made any Complaints known to You, any other member of the Executive Chamber, or the public. For the avoidance of doubt, to the extent additional allegations come to light following the issuance of this Subpoena, individuals who make such allegations should be included in the definition of “Complainant.”

2. “Complaint” means any and all complaints, allegations, comments, accusations, or other statements of workplace misconduct, sexual harassment, sex- or gender-based misconduct, or other behavior or comments of a sexual, abusive or otherwise inappropriate or uncomfortable nature, whether made formally or informally.
3. “Empire State Development” means Empire State Development (and all its offices, including all regional offices), including but not limited to all officers, directors, supervisors, personnel, employees, secretaries, interns, fellows, agents, contractors, consultants, representatives, and attorneys of Empire State Development, or any other Persons associated with or acting on behalf of the foregoing, or acting on behalf of any predecessors, successors, or affiliates of the foregoing at any point during the relevant time.
4. “Executive Chamber” means the Executive Chamber of the State of New York, including but not limited to Governor Andrew M. Cuomo, and all other officers, directors, supervisors, personnel, employees, secretaries, interns, fellows, agents, contractors, consultants, representatives, and attorneys of the Executive Chamber, or any other Persons associated with or acting on behalf of the foregoing, or acting on behalf of any predecessors, successors, or affiliates of the foregoing at any point during the relevant time.
5. “Governor” means the New York State Governor Andrew M. Cuomo.
6. “Respondent,” “You,” or “Your” means Howard Zemsky, Chair Emeritus of Empire State Development, either in an official or individual capacity.
7. “State” or “New York” means the State of New York.

C. Instructions

1. Preservation of Relevant Documents and Information; Spoliation. You are reminded of Your obligations under law to preserve Documents and information relevant or potentially relevant to this Subpoena from destruction or loss, and of the consequences of, and penalties available for, spoliation of evidence. No agreement, written or otherwise, purporting to modify, limit or otherwise vary the terms of this Subpoena, shall be construed in any way to narrow, qualify, eliminate or otherwise diminish Your aforementioned preservation obligations. Nor shall You act, in reliance upon any such agreement or otherwise, in any manner inconsistent with Your preservation obligations under law. No agreement purporting to modify, limit or otherwise vary Your preservation obligations under law shall be construed as in any way narrowing, qualifying, eliminating or otherwise diminishing such aforementioned preservation obligations, nor shall You act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.

2. Possession, Custody, and Control. The Subpoena calls for all responsive Documents or information in Your possession, custody or control. This includes, without limitation, Documents or information possessed or held by You on any devices, whether personally owned or supplied to you by your employer or held by Your employees, agents, representatives, or consultants or Persons from whom You could request Documents or information. If Documents or information responsive to a request in this Subpoena are in Your control, but not in Your possession or custody, You shall promptly Identify the Person with possession or custody of the Person's obligation to preserve such Documents and provide them to You for production.
3. Documents No Longer in Your Possession. If any Document requested herein was formerly in Your possession, custody or control but is no longer available, or no longer exists, You shall submit a statement in writing under oath that: (a) describes in detail the nature of such Document and its contents; (b) Identifies the Person(s) who prepared such Document and its contents; (c) Identifies all Persons who have seen or had possession of such Document; (d) specifies the date(s) on which such Document was prepared, transmitted or received; (e) specifies the date(s) on which such Document became unavailable; (f) specifies the reason why such Document is unavailable, including without limitation whether it was misplaced, lost, destroyed or transferred; and if such Document has been destroyed or transferred, the conditions of and reasons for such destruction or transfer and the Identity of the Person(s) requesting and performing such destruction or transfer; and (g) Identifies all Persons with knowledge of any portion of the contents of the Document.
4. No Documents Responsive to Subpoena Requests. If there are no Documents responsive to any particular Subpoena request, You shall so state in writing under oath in the Affidavit of Compliance attached hereto, identifying the paragraph number(s) of the Subpoena request concerned.
5. Format of Production. You shall produce Documents and information responsive to this Subpoena in the format requested by the Office of the New York State Attorney General, as set out in Attachments 1 and 2 or as otherwise agreed upon.
6. Databases. To the extent that any data responsive to the requests herein is maintained in an electronic repository of records, such as a detailed transcription report, such information should be produced by querying the database for responsive information and generating a report or a reasonably usable and exportable electronic file (for example, *.csv and/or *.xls formats) for review. If it is not possible to export data in this format, You must make the database available to the undersigned for meaningful inspection and review of the information.
7. Existing Organization of Documents to be Preserved. Regardless of whether a production is in electronic or paper format, each Document shall be produced in the same form, sequence, organization or other order or layout in which it was

maintained before production, including but not limited to production of any Document or other material indicating filing or other organization. Such production shall include without limitation any file folder, file jacket, cover or similar organizational material, as well as any folder bearing any title or legend that contains no Document. Likewise, all Documents that are physically attached to each other in Your files shall remain so attached in any production; or if such production is electronic, shall be accompanied by notation or information sufficient to indicate clearly such physical attachment.

8. Manner of Compliance – Custodians/Search Terms/Technology-Assisted Review. Prior consultation with the Special Deputies to the First Deputy Attorney General is required concerning selection of custodians for document searches (whether electronic or otherwise) or for use of search term filters, predictive coding or other forms of technology-assisted review. The Office of the Attorney General reserves the right to approve, disapprove, modify or supplement any proposed list of custodians, search terms, and/or review methodology. The selection or use of custodians, search term filters, and/or technology-assisted review in no way relieves You of Your obligation to fully respond to these requests for Documents or information.
9. Document Numbering. All Documents responsive to this Subpoena, regardless of whether produced or withheld on ground of privilege or other legal doctrine, and regardless of whether production is in electronic or paper format, shall be numbered in the lower right corner of each page of such Document, without disrupting or altering the form, sequence, organization or other order or layout in which such Documents were maintained before production. Such number shall comprise a prefix containing the producing Person's name or an abbreviation thereof, followed by a unique, sequential, identifying document control number.
10. Privilege Placeholders. For each Document withheld from production on ground of privilege or other legal doctrine, regardless of whether a production is electronic or in hard copy, You shall insert one or more placeholder page(s) in the production bearing the same document control number(s) borne by the Document withheld, in the sequential place(s) originally occupied by the Document before it was removed from the production.
11. Privilege. If You withhold or redact any Document responsive to this Subpoena on ground of any privilege or other legal doctrine, You shall submit with the Documents produced a statement in writing under oath, stating: (a) the document control number(s) of the Document withheld or redacted; (b) the type of Document; (c) the date of the Document; (d) the author(s) and recipient(s) of the Document; (e) the general subject matter of the Document; and (f) the legal ground for withholding or redacting the Document. If the legal ground for withholding or redacting the Document is attorney-client privilege, You shall indicate the name of the attorney(s) whose legal advice is sought or provided in the Document.

12. Your Production Instructions to Be Produced. You shall produce a copy of all written or otherwise recorded instructions prepared by You concerning the steps taken to respond to this Subpoena. For any unrecorded instructions given, You shall provide a written statement under oath from the Person(s) who gave such instructions that details the specific content of the instructions and any Person(s) to whom the instructions were given.
13. Cover Letter, Index, and Identifying Information. Accompanying any production(s) made pursuant to this Subpoena, You shall include a cover letter that shall at a minimum provide an index containing the following: (a) a description of the type and content of each Document produced therewith; (b) the paragraph number(s) of the Subpoena request(s) to which each such Document is responsive; (c) the Identity of the Custodian(s) of each such Document; and (d) the document control number(s) of each such Document. As further set forth in Attachment 2, information must also be included in the metadata and load files of each production concerning the identity of each Document's custodian, as well as information identifying the particular Document requests and/or information to which each document is responsive.
14. Affidavit of Compliance. A copy of the Affidavit of Compliance provided herewith shall be completed and executed by all natural persons supervising or participating in compliance with this Subpoena, and You shall submit such executed Affidavit(s) of Compliance with Your response to this Subpoena.
15. Identification of Persons Preparing Production. In a schedule attached to the Affidavit of Compliance provided herewith, You shall Identify the natural person(s) who prepared or assembled any productions or responses to this Subpoena. You shall further Identify the natural person(s) under whose personal supervision the preparation and assembly of productions and responses to this Subpoena occurred. You shall further Identify all other natural person(s) able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be.
16. Continuing Obligation to Produce. This Subpoena imposes a continuing obligation to produce the Documents and information requested. Documents located or created, and information learned, acquired or created, at any time after Your response is due shall be promptly produced at the place specified in this Subpoena.
17. No Oral Modifications. No agreement purporting to modify, limit or otherwise vary this Subpoena shall be valid or binding, and You shall not act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.

18. Time Period. Unless otherwise specified, the time period covered by this Subpoena shall be from January 1, 2013 forward.

D. Documents to be Produced

1. Any and all Documents concerning any Complaints concerning the Governor, including investigations thereof.
2. Any and all Documents related to Lindsey Boylan and the Executive Chamber, including the Governor.
3. Any and all Documents, including any of Your Communications, regarding Communications with the media or Your public statements about the Complainants or Complaints concerning the Governor.
4. A list of any and all electronic devices You used for any Communication related to the Executive Chamber or the Governor, whether personally owned or supplied to you by the Executive Chamber, Empire State Development, or any other unit, agency, department, or other governmental entity of New York.
5. A list of all Your email addresses, phone numbers, or user IDs used for any Communication related to the Executive Chamber or the Governor.

ATTACHMENT 1

Electronic Document Production Specifications

Unless otherwise specified and agreed to by the Office of Attorney General, all responsive documents must be produced in LexisNexis® Concordance® format in accordance with the following instructions. Any questions regarding electronic document production should be directed to the Special Deputy to the First Deputy Attorney General whose telephone number appears on the subpoena.

1. Concordance Production Components. A Concordance production consists of the following component files, which must be produced in accordance with the specifications set forth below in Section 7.
 - a. ***Metadata Load File.*** A delimited text file that lists in columnar format the required metadata for each produced document.
 - b. ***Extracted or OCR Text Files.*** Document-level extracted text for each produced document or document-level optical character recognition (“OCR”) text where extracted text is not available.
 - c. ***Single-Page Image Files.*** Individual petrified page images of the produced documents in tagged image format (“TIF”), with page-level Bates number endorsements.
 - d. ***Opticon Load File.*** A delimited text file that lists the single-page TIF files for each produced document and defines (i) the relative location of the TIF files on the production media and (ii) each document break.
 - e. ***Native Files.*** Native format versions of non-printable or non-print friendly produced documents.
2. Production Folder Structure. The production must be organized according to the following standard folder structure:
 - data\ (contains production load files)
 - images\ (contains single-page TIF files, with subfolder organization)
 \0001, \0002, \0003...
 - native_files\ (contains native files, with subfolder organization)
 \0001, \0002, \0003...
 - text\ (contains text files, with subfolder organization)
 \0001, \0002, \0003...
3. De-Duplication. You must perform global de-duplication of stand-alone documents and email families against any prior productions pursuant to this or previously related subpoenas.

4. Paper or Scanned Documents. Documents that exist only in paper format must be scanned to single-page TIF files and OCR'd. The resulting electronic files should be pursued in Concordance format pursuant to these instructions. You must contact the Special Deputy to the First Deputy Attorney General whose telephone number appears on the subpoena to discuss (i) any documents that cannot be scanned, and (ii) how information for scanned documents should be represented in the metadata load file.
5. Structured Data. Before producing structured data, including but not limited to relational databases, transactional data, and xml pages, you must first speak to the Special Deputy to the First Deputy Attorney General whose email address appears on the subpoena. Structured data is data that has a defined length and format and includes, but is not limited to, relational databases, graphical databases, JSON files, or xml/html pages.
 - a. Relational Databases
 1. Database tables should be provided in CSV or other delimited machine-readable, non-proprietary format, with each table in a separate data file. The preferred delimiter is a vertical bar "|". If after speaking with the Special Deputy to the First Deputy Attorney General and it is determined that the data cannot be exported from a proprietary database, then the data can be produced in the proprietary format so long as the Office of the Attorney General is given sufficient access to that data.
 2. Each database must have an accompanying Data Dictionary.
 3. Dates and numbers must be clearly and consistently formatted and, where relevant, units of measure should be explained in the Data Dictionary.
 4. Records must contain clear, unique identifiers, and the Data Dictionary must include explanations of how the files and records relate to one another.
 5. Each data file must also have an accompanying summary file that provides total row counts for the entire dataset and total row counts.
 - b. Compression
 1. If Documents are provided in a compressed archive, only standard lossless compression methods (e.g., gzip, bzip2, and ZIP) shall be used. Media files should be provided in their original file format, with metadata preserved and no additional lossy encoding applied.

6. Media and Encryption. All documents must be produced on CD, DVD, or hard-drive media. After consultation with the Special Deputy to the First Deputy Attorney General, Documents may also be produced over a secure file transfer protocol (FTP) or a pre-approved cloud-based platform (e.g., Amazon Web Services S3 bucket). All production media must be protected with a strong, randomly generated password containing at least 16 alphanumeric characters and encrypted using Advanced Encryption Standard with 256-bit key length (AES-256). Passwords for electronic documents, files, compressed archives and encrypted media must be provided separately from the media.

7. Production File Requirements.

a. ***Metadata Load File***

- Required file format:
 - ASCII or UTF-8
 - Windows formatted CR + LF end of line characters, including full CR + LF on last record in file.
 - .dat file extension
 - Field delimiter: (ASCII decimal character 20)
 - Text Qualifier: þ (ASCII decimal character 254). Date and pure numeric value fields do not require qualifiers.
 - Multiple value field delimiter: ; (ASCII decimal character 59)
- The first line of the metadata load file must list all included fields. All required fields are listed in Attachment 2.
- Fields with no values must be represented by empty columns maintaining delimiters and qualifiers.
- **Note:** All documents must have page-level Bates numbering (except documents produced only in native format, which must be assigned a document-level Bates number). The metadata load file must list the beginning and ending Bates numbers (BEGDOC and ENDDOC) for each document. For document families, including but not limited to emails and attachments, compound documents, and uncompressed file containers, the metadata load file must also list the Bates range of the entire document family (ATTACHRANGE), beginning with the first Bates number (BEGDOC) of the “parent” document and ending with the last Bates number (ENDDOC) assigned to the last “child” in the document family.
- Date and Time metadata must be provided in separate columns.
- Accepted date formats:
 - mm/dd/yyyy
 - yyyy/mm/dd
 - yyyymmdd

- Accepted time formats:
 - hh:mm:ss (if not in 24-hour format, you must indicate am/pm)
 - hh:mm:ss:mmm
- b. ***Extracted or OCR Text Files***
- You must produce individual document-level text files containing the full extracted text for each produced document.
 - When extracted text is not available (for instance, for image-only documents) you must provide individual document-level text files containing the document’s full OCR text.
 - The filename for each text file must match the document’s beginning Bates number (BEGDOC) listed in the metadata load file.
 - Text files must be divided into subfolders containing no more than 500 to 1000 files.
- c. ***Single-Page Image Files (Petrified Page Images)***
- Where possible, all produced documents must be converted into single-page tagged image format (“TIF”) files. See Section 7.E below for instructions on producing native versions of documents you are unable to convert.
 - Image documents that exist only in non-TIF formats must be converted into TIF files. The original image format must be produced as a native file as described in Section 7.E below.
 - For documents produced only in native format, you must provide a TIF placeholder that states “Document produced only in native format.”
 - Each single-page TIF file must be endorsed with a unique Bates number.
 - The filename for each single-page TIF file must match the unique page-level Bates number (or document-level Bates number for documents produced only in native format).
 - Required image file format:
 - CCITT Group 4 compression
 - 2-Bit black and white
 - 300 dpi
 - Either .tif or .tiff file extension.
 - TIF files must be divided into subfolders containing no more than 500 to 1000 files. Where possible documents should not span multiple subfolders.
- d. ***Opticon Load File***
- Required file format:
 - ASCII
 - Windows formatted CR + LF end of line characters
 - Field delimiter: , (ASCII decimal character 44)
 - No Text Qualifier

- .opt file extension
- The comma-delimited Opticon load file must contain the following seven fields (as indicated below, values for certain fields may be left blank):
 - ALIAS or IMAGEKEY – the unique Bates number assigned to each page of the production.
 - VOLUME – this value is optional and may be left blank.
 - RELATIVE PATH – the filepath to each single-page image file on the production media.
 - DOCUMENT BREAK – defines the first page of a document. The only possible values for this field are “Y” or blank.
 - FOLDER BREAK – defines the first page of a folder. The only possible values for this field are “Y” or blank.
 - BOX BREAK – defines the first page of a box. The only possible values for this field are “Y” or blank.
 - PAGE COUNT – this value is optional and may be left blank.
- **Example:**
 ABC00001,,IMAGES\0001\ABC00001.tif,Y,,2
 ABC00002,,IMAGES\0001\ABC00002.tif,,,
 ABC00003,,IMAGES\0002\ABC00003.tif,Y,,1
 ABC00004,,IMAGES\0002\ABC00004.tif,Y,,1

e. ***Native Files***

- Non-printable or non-print friendly documents (including but not limited to spreadsheets, audio files, video files and documents for which color has significance to document fidelity) must be produced in their native format.
- The filename of each native file must match the document’s beginning Bates number (BEGDOC) in the metadata load file and retain the original file extension.
- For documents produced only in native format, you must assign a single document-level Bates number and provide an image file placeholder that states “Document produced only in native format.”
- The relative paths to all native files on the production media must be listed in the NATIVEFILE field of the metadata load file.
- Native files that are password-protected must be decrypted prior to conversion and produced in decrypted form. In cases where this cannot be achieved the document’s password must be listed in the metadata load file. The password should be placed in the COMMENTS field with the format Password: <PASSWORD>.
- You may be required to supply a software license for proprietary documents produced only in native format.

ATTACHMENT 2
Required Fields for Metadata Load File

FIELD NAME	FIELD DESCRIPTION	FIELD VALUE EXAMPLE¹
DOCID	Unique document reference (can be used for de-duplication).	ABC0001 or ###.#####.###
BEGDOC	Bates number assigned to the first page of the document.	ABC0001
ENDDOC	Bates number assigned to the last page of the document.	ABC0002
BEGATTACH	Bates number assigned to the first page of the parent document in a document family (<i>i.e.</i> , should be the same as BEGDOC of the parent document, or PARENTDOC).	ABC0001
ENDATTACH	Bates number assigned to the last page of the last child document in a family (<i>i.e.</i> , should be the same as ENDDOC of the last child document).	ABC0008
ATTACHRANGE	Bates range of entire document family.	ABC0001 - ABC0008
PARENTDOC	BEGDOC of parent document.	ABC0001
CHILDDOCS	List of BEGDOCs of all child documents, delimited by ";" when field has multiple values.	ABC0002; ABC0003; ABC0004...
DOCREQ	List of particular Requests for Documents to be Produced in the subpoena	1; 2; 3 . . .
INTERROG	List of particular Requests for Information or interrogatories in the subpoena	1; 2; 3 . . .
COMMENTS	Additional document comments, such as passwords for encrypted files.	

¹ Examples represent possible values and not required format unless the field format is specified in Attachment 1.

NATIVEFILE	Relative file path of the native file on the production media.	.\Native_File\Folder\...\BE GDOC.ext
SOURCE	For scanned paper records this should be a description of the physical location of the original paper record. For loose electronic files this should be the name of the file server or workstation where the files were gathered.	Company Name, Department Name, Location, Box Number...
CUSTODIAN	Owner of the document or file.	Firstname Lastname, Lastname, Firstname, User Name; Company Name, Department Name...
FROM	Sender of the email.	Firstname Lastname < FLastname @domain >
TO	All to: members or recipients, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
CC	All cc: members, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
BCC	All bcc: members, delimited by ";" when field has multiple values	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
SUBJECT	Subject line of the email.	
DATERCVD	Date that an email was received.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMERCVD	Time that an email was received.	hh:mm:ss AM/PM or hh:mm:ss
DATESENT	Date that an email was sent.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd

TIMESENT	Time that an email was sent.	hh:mm:ss AM/PM or hh:mm:ss
CALBEGDATE	Date that a meeting begins.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALBEGTIME	Time that a meeting begins.	hh:mm:ss AM/PM or hh:mm:ss
CALENDDATE	Date that a meeting ends.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALENDTIME	Time that a meeting ends.	hh:mm:ss AM/PM or hh:mm:ss
CALENDAR DUR	Duration of a meeting in hours.	0.75, 1.5...
ATTACHMENTS	List of filenames of all attachments, delimited by ";" when field has multiple values.	AttachmentFileName.; AttachmentFileName.doc x; AttachmentFileName.pdf; ...
NUMATTACH	Number of attachments.	1, 2, 3, 4...
RECORDTYPE	General type of record.	IMAGE; LOOSE E- MAIL; E-MAIL; E-DOC; IMAGE ATTACHMENT; LOOSE E-MAIL ATTACHMENT; E- MAIL ATTACHMENT; E-DOC ATTACHMENT
FOLDERLOC	Original folder path of the produced document.	Drive:\Folder\...\..\
FILENAME	Original filename of the produced document.	Filename.ext
DOCEXT	Original file extension.	html, xls, pdf
DOCTYPE	Name of the program that created the produced document.	Adobe Acrobat, Microsoft Word, Microsoft Excel, Corel WordPerfect...
TITLE	Document title (if entered).	
AUTHOR	Name of the document author.	Firstname Lastname; Lastname, First Name; FLastname
REVISION	Number of revisions to a document.	18

DATECREATED	Date that a document was created.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMECREATED	Time that a document was created.	hh:mm:ss AM/PM or hh:mm:ss
DATEMOD	Date that a document was last modified.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMEMOD	Time that a document was last modified.	hh:mm:ss AM/PM or hh:mm:ss
FILESIZE	Original file size in bytes.	128, 512, 1024...
PGCOUNT	Number of pages per document.	1, 2, 10, 100...
IMPORTANCE	Email priority level if set.	Low, Normal, High
TIFFSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	Y, C, E, W, N, P
DUPSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	P
MD5HASH	MD5 hash value computed from native file (a/k/a file fingerprint).	BC1C5CA6C1945179FE E144F25F51087B
SHA1HASH	SHA1 hash value	B68F4F57223CA7DA358 4BAD7ECF111B8044F86 31
MSGINDEX	Email message ID	

AFFIDAVIT OF COMPLIANCE WITH SUBPOENA

State of _____ }
County of _____ }

I, _____, being duly sworn, state as follows:

1. I am employed by Respondent in the position of _____
_____;
2. Respondent's productions and responses to the Subpoena of the Attorney General of the State of New York, dated _____, 20_____ (the "Subpoena") were prepared and assembled under my personal supervision;
3. I made or caused to be made a diligent, complete and comprehensive search for all Documents and information requested by the Subpoena, in full accordance with the instructions and definitions set forth in the Subpoena;
4. Respondent's productions and responses to the Subpoena are complete and correct to the best of my knowledge and belief;
5. No Documents or information responsive to the Subpoena have been withheld from Respondent's production and response, other than responsive Documents or information withheld on the basis of a legal privilege or doctrine;
6. All responsive Documents or information withheld on the basis of a legal privilege or doctrine have been identified on a privilege log composed and produced in accordance with the instructions in the Subpoena;
7. The Documents contained in Respondent's productions and responses to the Subpoena are authentic, genuine and what they purport to be;
8. Attached is a true and accurate record of all persons who prepared and assembled any productions and responses to the Subpoena, all persons under whose personal supervision the preparation and assembly of productions and responses to the Subpoena occurred, and all persons able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be; and

9. Attached is a true and accurate statement of those requests under the Subpoena as to which no responsive Documents were located in the course of the aforementioned search.

Signature of Affiant

Date

Printed Name of Affiant

* * *

Subscribed and sworn to before me this _____ day of _____, 20__.

_____, Notary Public

My commission expires: _____



FEBRUARY 24, 2021 Albany, NY

Statement from Press Secretary Caitlin Girouard

"As we said before, Ms. Boylan's claims of inappropriate behavior are quite simply false."

In Ms. Boylan's latest blog post, she opens up with a story about a plane trip in October 2017 - the manifests of all flights from October 2017 can be found below - there was no flight where Lindsey was alone with the Governor, a single press aide, and a NYS Trooper. Below is a statement that can be attributed to **John Magglore, Howard Zemsky, Dani Lever and Abbey Fashouer Collins** who were on all of these flights with her:

"We were on each of these October flights and this conversation did not happen."

https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/October_2017.pdf

~~10/04/17 - Watertown Downtown Revitalization Initiative/Southern Tier Lithium Ion Battery Giga-Factory~~
~~Announcement/Western New York Smart Growth Community Fund Announcement~~

Passengers:

EXHIBIT

3

Governor Andrew M. Cuomo

John Maggiore, Director of Policy

Dani Lever, Press Secretary

Lindsey Boylan, Chief of Staff, Empire State Development

Howard Zemsky, President and CEO, Empire State Development

10/06/17 - Cortland Downtown Revitalization Initiative/Rochester Train Station Event

Passengers:

Governor Andrew M. Cuomo

John Maggiore, Director of Policy

Lindsey Boylan, Chief of Staff, Empire State Development

Abbey Fashouer, First Deputy Press Secretary

Protective Services incl. Sr. Inv. V. Straface

10/12/17 - Cold Spring Harbor Laboratory Groundbreaking/Staten Island Fentanyl Crisis Announcement

Passengers:

Governor Andrew M. Cuomo

Dani Lever, Press Secretary

Lindsey Boylan, Chief of Staff, Empire State Development

Howard Zemsky, President and CEO, Empire State

~~10/17/17 - John R. Olshe Children's Hospital Dedication Ceremony/Syracuse Airport Redesign and Reconstruction~~
Announcement/Norsk Titanium USA Announcement

Passengers:

Governor Andrew M. Cuomo

John Maggiore, Director of Policy

Dani Lever, Press Secretary

Howard Zemsky, President and CEO, Empire State Development

Lindsey Boylan, Chief of Staff, Empire State Development

Protective Services incl. Sr. Inv. J. Boyle

Contact the Governor's Press Office



**Contact us
by phone:**

Albany: (518) 474 - 8418

New York City: (212) 681 - 4640



**Contact us
by email:**

Press.Office@exec.ny.gov

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My story of working with Governor Cuomo



Lindsey Boylan Feb 24 · 8 min read

“Let’s play strip poker.”

I should have been shocked by the Governor’s crude comment, but I wasn’t.

We were flying home from an October 2017 event in Western New York on his taxpayer-funded jet. He was seated facing me, so close our knees almost touched. His press aide was to my right and a state trooper behind us.

“That’s exactly what I was thinking,” I responded sarcastically and awkwardly. I tried to play it cool. But in that moment, I realized just how acquiescent I had become.

Governor Andrew Cuomo has created a culture within his administration where sexual harassment and bullying is so pervasive that it is not only condoned but expected. His inappropriate behavior toward women was an affirmation that he liked you, that you must be doing something right. He used intimidation to silence his critics. And if you dared to speak up, you would face consequences.

That’s why I panicked on the morning of December 13.

While enjoying a weekend with my husband and six-year-old daughter, I spontaneously decided to share a small part of the truth I had hidden for so long in shame and never planned to disclose. The night before, a former Cuomo staffer confided to me that she,

too, had been the subject of the Governor's workplace harassment. Her story mirrored my own. Seeing his name floated as a potential candidate for U.S. Attorney General — the highest law enforcement official in the land — set me off.

In a few tweets, I told the world what a few close friends, family members and my therapist had known for years: Andrew Cuomo abused his power as Governor to sexually harass me, just as he had done with so many other women.

As messages from journalists buzzed on my phone, I laid in bed unable to move. I finally had decided to speak up, but at what cost?

Parts of a supposed confidential personnel file (which I've never seen) were leaked to the media in an effort to smear me. The Governor's loyalists called around town, asking about me.

Last week, Assemblymember Ron Kim spoke out publicly about the intimidation and abuse he has faced from Governor Cuomo and his aides. As Mayor de Blasio remarked, "the bullying is nothing new." There are many more of us, but most are too afraid to speak up.

I'm compelled to tell my story because no woman should feel forced to hide their experiences of workplace intimidation, harassment and humiliation — not by the Governor or anyone else.

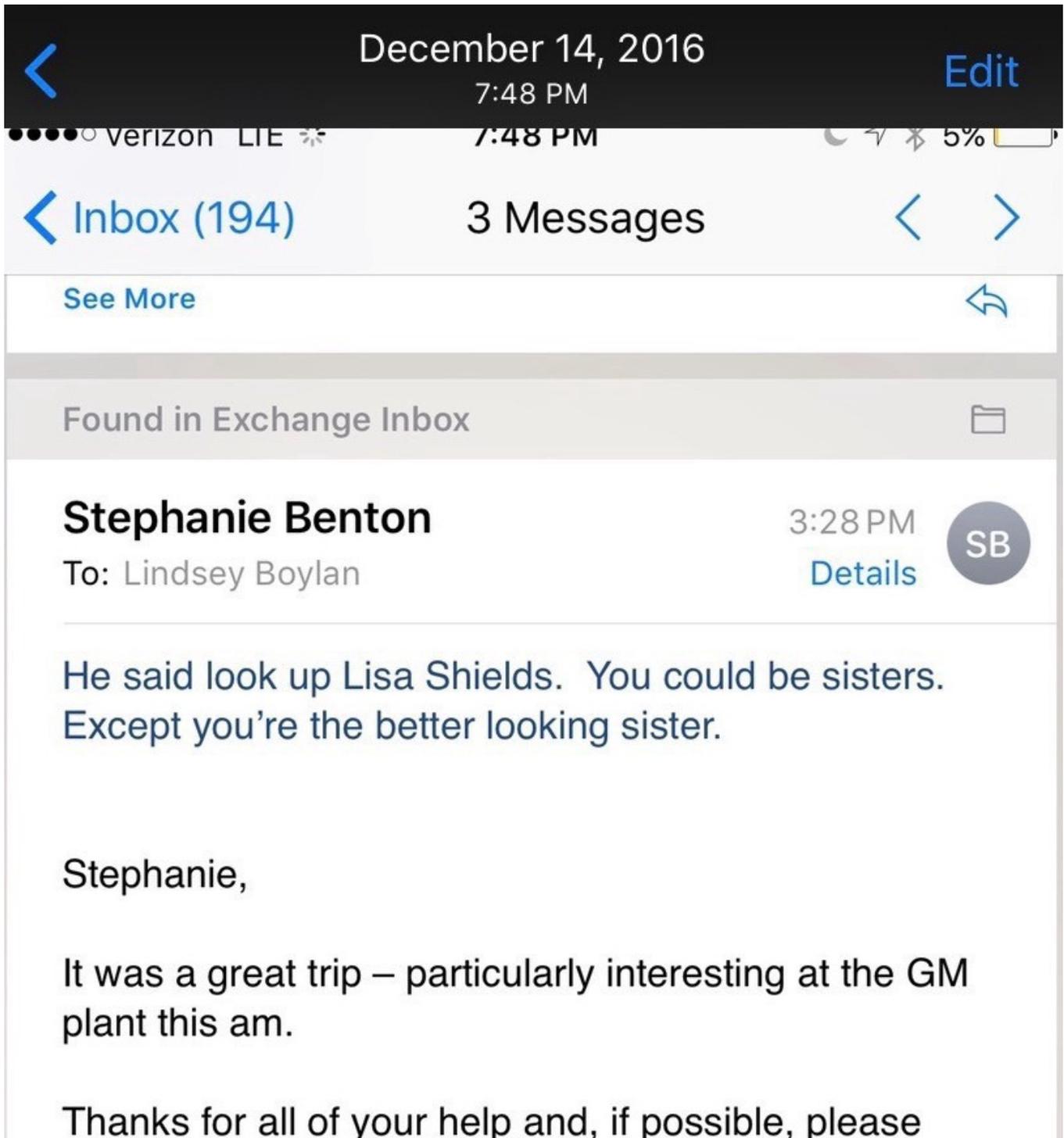
I expect the Governor and his top aides will attempt to further disparage me, just as they've done with Assemblymember Kim. They'd lose their jobs if they didn't protect him. That's how his administration works. I know because I was a part of it.

I joined state government in 2015 as a Vice President at Empire State Development. I was quickly promoted to Chief of Staff at the state economic development agency. The news of my appointment prompted a warning from a friend who served as an executive with an influential civic engagement organization: "Be careful around the Governor."

My first encounter with the Governor came at a January 6, 2016, event at Madison Square Garden to promote the new Pennsylvania Station-Farley Complex project. After his speech, he stopped to talk to me. I was new on the job and surprised by how much attention he paid me.

My boss soon informed me that the Governor had a “crush” on me. It was an uncomfortable but all-too-familiar feeling: the struggle to be taken seriously by a powerful man who tied my worth to my body and my appearance.

Stephanie Benton, Director of the Governor’s Offices, told me in an email on December 14, 2016 that the Governor suggested I look up images of Lisa Shields — his rumored former girlfriend — because “we could be sisters” and I was “the better looking sister.” The Governor began calling me “Lisa” in front of colleagues. It was degrading.



relay my thanks to the Governor for letting me join again.

Hope to see you one of these days after work

All my best,
Linds

Lindsey Boylan
Chief of Staff

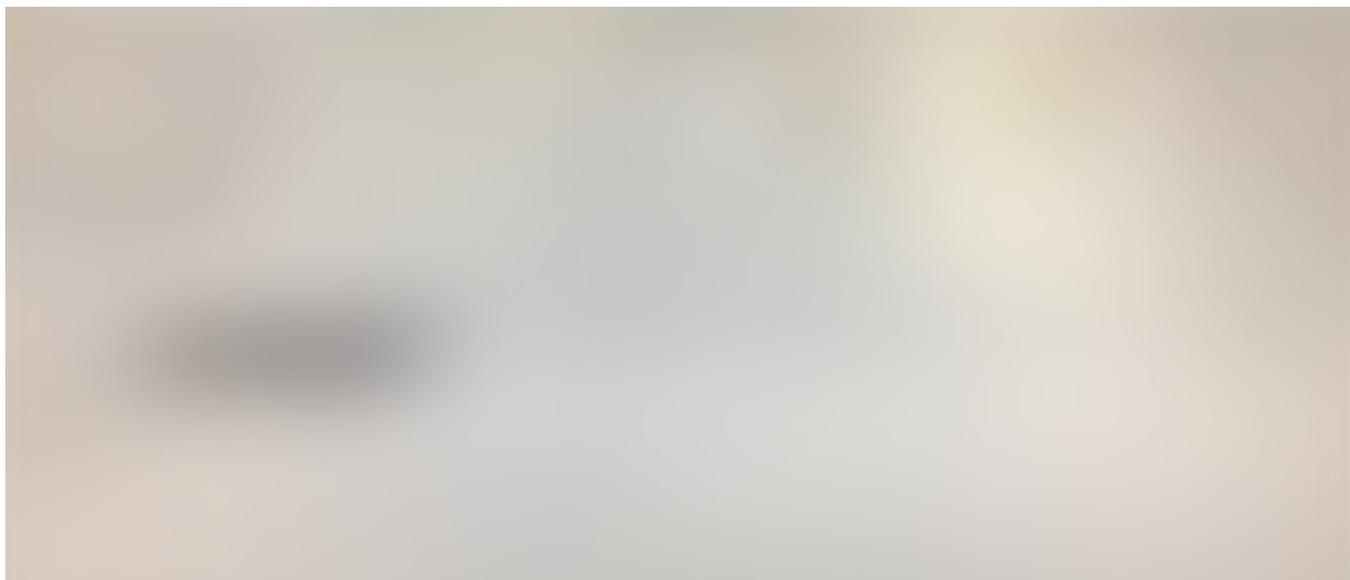
Empire State Development



www.esd.ny.gov

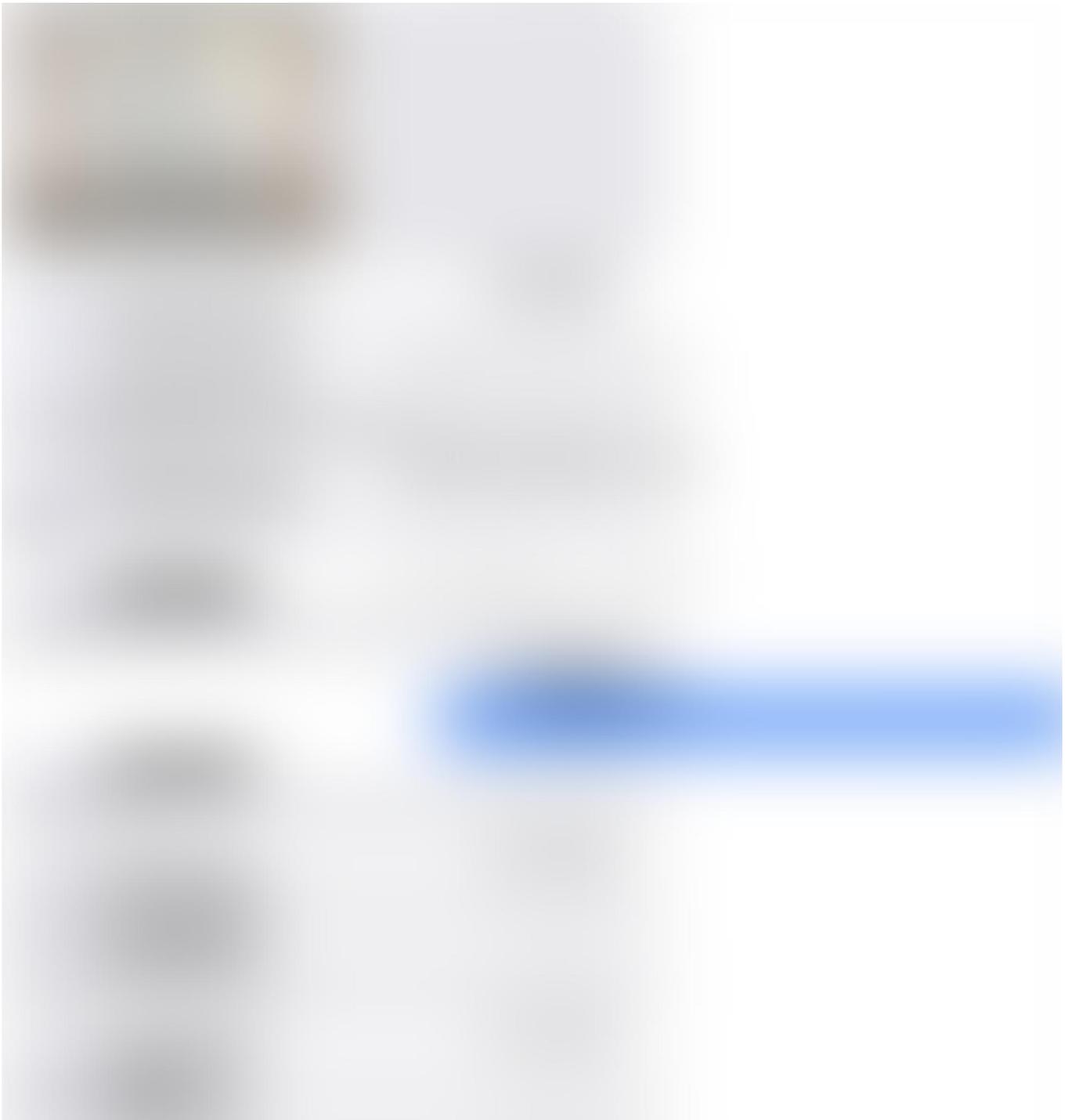
The Governor’s staff was directed to tell me I looked like his rumored former girlfriend.

I had complained to friends that the Governor would go out of his way to touch me on my lower back, arms and legs. His senior staff began keeping tabs on my whereabouts. “He is a sexist pig and you should avoid being alone with him!” my mother texted me on November 4, 2016.





The Governor's senior staff member emailed my supervisor about my whereabouts.





I shared my concern with my mother at the time.

The Governor's behavior made me nervous, but I didn't truly fear him until December 2016. Senior State employees gathered at the Empire State Plaza Convention Center in Albany to celebrate the holidays and our year's work. After his remarks, the Governor spotted me in a room filled with hundreds of people waiting to shake his hand. As he began to approach me, I excused myself from coworkers and moved upstairs to a more distant area of the party.

Minutes later, I received a call from an unlisted number. It was the Governor's body person. He told me to come to the Capitol because the Governor wanted to see me.

I made my way through the underground connection that linked the Plaza to the Capitol. As the black wrought-iron elevator took me to the second floor, I called my husband. I told him I was afraid of what might happen. That was unlike me. I was never afraid.

I exited the elevator to see the body person waiting for me. He walked me down the Hall of Governors. "Are there cameras here?" I asked him. I remembered my mother's text warning the month before. I worried that I would be left alone with the Governor. I didn't know why I was there. Or how it would end.

I was escorted into the Governor's office, past the desks of administrative assistants and into a room with a large table and historical artifacts. The door closed behind me. It was my first time in his Albany office. The Governor entered the room from another door. We were alone.

As he showed me around, I tried to maintain my distance. He paused at one point and smirked as he showed off a cigar box. He told me that President Clinton had given it to him while he served as the Secretary of Housing and Urban Development. The two-decade old reference to President Clinton's affair with Monica Lewinsky was not lost on me.

The Governor must have sensed my fear because he finally let me out of the office. I tried to rationalize this incident in my head. At least he didn't touch me. That made me feel safer.

His inappropriate gestures became more frequent. He gave roses to female staffers on Valentine's Day and arranged to have one delivered to me, the only one on my floor. A signed photograph of the Governor appeared in my closed-door office while I was out. These were not-so-subtle reminders of the Governor exploiting the power dynamic with the women around him.

In 2018, I was promoted to Deputy Secretary for Economic Development and Special Advisor to the Governor. I initially turned the job down — not because I didn't want the responsibility or work but because I didn't want to be near him. I finally accepted the position at the Governor's insistence with one requirement — I would keep my old agency office and remain on a separate floor from him and his inner circle.

The Governor's pervasive harassment extended beyond just me. He made unflattering comments about the weight of female colleagues. He ridiculed them about their romantic relationships and significant others. He said the reasons that men get women were "money and power."

I tried to excuse his behavior. I told myself "it's only words." But that changed after a one-on-one briefing with the Governor to update him on economic and infrastructure projects. We were in his New York City office on Third Avenue. As I got up to leave and walk toward an open door, he stepped in front of me and kissed me on the lips. I was in shock, but I kept walking.

I left past the desk of Stephanie Benton. I was scared she had seen the kiss. The idea that someone might think I held my high-ranking position because of the Governor's "crush" on me was more demeaning than the kiss itself.

After that, my fears worsened. I came to work nauseous every day. My relationship with his senior team — mostly women — grew hostile after I started speaking up for myself. I was reprimanded and told to get in line by his top aides, but I could no longer ignore it.

On September 26, 2018, I sent a mass email informing staff members of my resignation.

There is a part of me that will never forgive myself for being a victim for so long, for trying to ignore behavior that I knew was wrong. The Governor exploited my weaknesses, my desire to do good work and to be respected. I was made to believe this was the world I needed to survive in.

It was all so normalized — particularly by Melissa DeRosa and other top women around him — that only now do I realize how insidious his abuse was.

After my tweets about the Governor in December, two women reached out to me with their own experiences. One described how she lived in constant fear, scared of what would happen to her if she rejected the Governor's advances. The other said she was instructed by the Governor to warn staff members who upset him that their jobs could be at risk. Both told me they are too afraid to speak out.

I know some will brush off my experience as trivial. We are accustomed to powerful men behaving badly when no one is watching. But what does it say about us when everyone is watching and no one says a thing?

Telling my truth isn't about seeking revenge. I was proud to work in the Cuomo Administration. For so long I had looked up to the Governor. But his abusive behavior needs to stop.

I am speaking up because I have the privilege to do so when many others do not. No one should have to be defined or destroyed by this kind of sexual harassment. Nor should they be revictimized if they decide to speak their own truth.

I hope that sharing my story will clear the path for other women to do the same.



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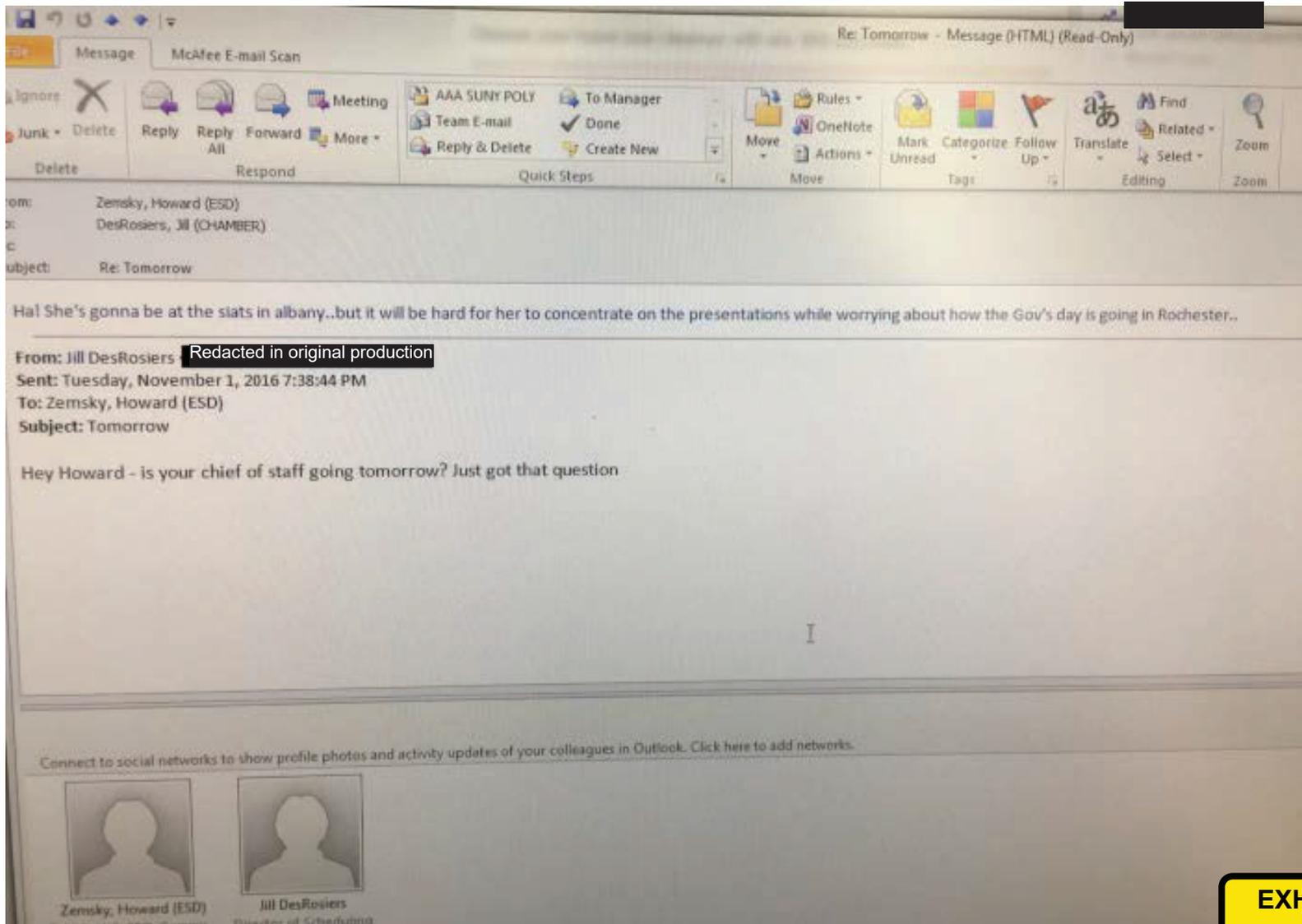


EXHIBIT
5

From: Zemsky, Howard (ESD)
Sent: Tuesday, September 18, 2018 12:23 PM EDT
To: [REDACTED] (ESD); [REDACTED] (ESD)
CC: [REDACTED] (ESD); [REDACTED] (ESD)
Subject: Re: internal post agency wide today, thank you

Better, thanks, good to go

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: [REDACTED] (ESD)
Sent: Tuesday, September 18, 2018 11:57 AM
To: Zemsky, Howard (ESD); [REDACTED] (ESD)
Cc: [REDACTED] (ESD); [REDACTED] (ESD)
Subject: Re: internal post agency wide today, thank you

Looks good and very excited for [REDACTED] (and ESD). Draft below has a few grammatical edits. If you're good with it, we'll send now.

Dear Team,

I am very pleased to announce that [REDACTED] has agreed to serve as ESD's Chief of Staff.

During my time with ESD, I've especially leaned on the Chief of Staff to help advance our economic development strategies across the state, working closely with our Regional Offices and Regional Directors. The Regional Offices and Directors will report to [REDACTED], who also will work closely with our business development and communication teams and with any areas of the organization where he can be helpful in advancing both our agenda and the Governor's goals.

[REDACTED] experience with business, strategy, communications, management—plus the knowledge of ESD he's gained during his five years here—are all great assets that he brings to the position. [REDACTED] also brings extensive background in the private sector, from an accomplished career that dates back to the 1970s, starting with Procter & Gamble and including senior management positions with some of the world's leading advertising firms, including Ogilvy.

[REDACTED] is already familiar with, and has helped us develop and communicate, our regional strategies. His considerable success leading our agency's overall marketing efforts is important to highlight and something we are all proud of. [REDACTED] is also well-known, well-respected, and trusted in the Executive Chamber. Most importantly, he leads by example.

As you know, Lindsey Boylan accepted a promotion with the Chamber several months ago and has been extremely busy helping the Governor and ESD on many matters since accepting that important position...not to mention her additional responsibilities with HCR and with NYSCA (and probably more that I can't keep up with). I sincerely appreciate the innumerable contributions she has made, and continues to make, working together with us.

I always say economic development is a team sport and we all work to advance the Governor's signature initiatives, and we are proud to play such a significant role in many of them.

A sincere thanks once again to Lindsey, and a hearty congratulations to [REDACTED] in his new role!

Howard

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From: Zemsky, Howard (ESD) [REDACTED]@esd.ny.gov>

Sent: Tuesday, September 18, 2018 10:51 AM

To: [REDACTED]; [REDACTED] (ESD); [REDACTED] (ESD)

Subject: internal post agency wide today, thank you

Dear Team,

I am very pleased to announce that [REDACTED] has agreed to serve as my/our/ESD's Chief of Staff. During my time with ESD I've particularly leaned on the Chief of Staff position to help advance our economic development strategies across the state working closely with our Regional Offices and Regional Directors, who will report to [REDACTED]. [REDACTED] will also work closely with our business development and communication teams, in addition to any areas of the organization where he can be helpful in advancing our agenda, and the Governor's goals.

[REDACTED] experience with business, strategy, communications, management and his knowledge of ESD learned during 5 years here are all great assets that he brings to the position. [REDACTED] also brings extensive background in the private sector during an accomplished career that dates back to the 70's beginning with Procter & Gamble and including senior management positions with some of the world's leading advertising firms including Ogilvy. [REDACTED] is already familiar with and has helped us develop and communicate our regional strategies. His considerable success leading our agencies overall marketing efforts is important to highlight and something we are all proud of. [REDACTED] is also well known, well respected, and trusted in the Executive Chamber. Most importantly, he leads by example.

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A sincere thanks once again to Lindsey, and a hearty congratulations to [REDACTED] in his new role!

Howard