NEW YORK CITY COUNCIL
COMMITTEE ON STANDARDS AND ETHICS
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IN RE THE DISCIPLINARY MATTER (2) OF
COUNCIL MEMBER ANDY KING

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REPORT OF THE
COMMITTEE ON STANDARDS AND ETHICS

FOR CHARGES ONE, TWO, THREE, AND FOUR OF THE CHARGES
AGAINST COUNCIL MEMBER ANDY KING

DATED: SEPTEMBER 29, 2020

By the Committee on Standards and Ethics:

Council Member Steven Matteo, Chair
Council Member Margaret S. Chin
Council Member Vanessa L. Gibson
Council Member Karen Koslowitz
Council Member Stephen T. Levin

EXECUTIVE SUMMARY

The New York City Council (the "Council"), Committee on Standards and Ethics (the "Committee"), after full and due consideration of the evidentiary record in the hearing of the disciplinary matter against Council Member Andy King ("Council Member King" or "Respondent") conducted on June 22, June 29, July 7, and July 17, 2020 (the "Hearing"), and presented by Special Counsel to the Council, Carrie H. Cohen, Morrison & Foerster LLP, assisted by Amanda Gayer, Morrison & Foerster LLP, finds that the Charges against Council Member King in that matter (the "Charges") are substantiated for the reasons summarized and fully set forth in the Findings of Fact and Conclusions below.

Specifically and as alleged in the Charges, the Committee found that Council Member King engaged in conduct that constituted (1) violations of the prohibitions in the Council's Anti-Discrimination and Harassment Policy (the "Policy"), which prohibits in relevant part harassment and discrimination on the basis of gender, disability and/or medical condition; (2) violations of the conflicts of interest laws set forth in Chapter 68 of the New York City Charter ("Chapter 68 of the City Charter") and Council Rules 10.70 and 10.80, which prohibit misappropriation and misuse of Council funds; and (3) violations of Council Resolution No. 1138-2019 (the "Resolution"), the principal relevant provisions of which required Council Member King to (i) pay a $15,000 fine, (ii) pay for and take appropriate training, and (iii) cooperate with a monitor in his office to ensure that his staff was appropriately managed pursuant to Council Rules and policies. The Committee notes that the facts that support Charges One, Two and Three occurred prior to the conclusion of the 2019 disciplinary matter against Council Member King that resulted in the sanctions set forth in the Resolution, including the placement of a Monitor in his office, but were not known to the Committee until after its adoption of the 2019 Report. The Committee further notes that Council Member King and his attorneys attended all days of the Hearing and were provided with a full and fair opportunity to be heard and to challenge the Charges and the evidence against him.

Based on the Committee's Findings of Fact and Conclusions, the Committee recommends removal from office be imposed on Council Member King effective immediately as such penalty is the only appropriate sanction to address his violations of Council Policy, Council Rules, and Chapter 68 of the City Charter as set forth below and in the Proposed Resolution attached hereto and incorporated herein as Appendix A.

Below is an executive summary of the Committee's Findings of Fact and Conclusions.

CHARGE ONE: HARASSMENT AND DISCRIMINATION

From in or about September 2017 through in or about January 2018, Council Member King engaged in harassment and discrimination by using unwelcome, vulgar, derogatory, and/or hostile language in reference to Staffer-1's[1] gender, disability, and/or medical condition, and subsequently

[1] In order to protect identities and prevent further retaliation by Council Member King against current and former staff and consistent with Council policy, current and former members of Council Member King's staff are referred to herein by number (*e.g.*, "Staffer-#") and defined in the Relevant Persons section below or referred to in general as "King Staff" or "King Staff Members."

taking adverse employment action against Staffer-1 on the basis of her gender, disability, and/or medical condition in violation of the Policy.

Credible testimony and corroborating documents at the Hearing demonstrated the following:

Council Member King's Harassing and Discriminatory Comment Regarding Staffer-1's Gender, Disability, and/or Medical Condition

- In or about early September 2017 while accompanying Council Member King to an event, Staffer-1 informed Council Member King that she had been bleeding for more than a month, gestured toward her genital area, and stated that she needed to go to the hospital emergency room. In response, Council Member King told Staffer-1 to "put a Band-Aid on it" and laughed.

- When Staffer-1 gestured to her genital area and stated that she had been bleeding for more than a month, she was referring to abnormally heavy menstrual bleeding caused by polycystic ovarian syndrome, a medical condition from which she suffers.

- That same day, following the conclusion of the event, Staffer-1 went to a hospital emergency room, where she was examined, diagnosed with abnormal vaginal bleeding, and then released. The hospital and Staffer-1's personal doctor with whom she consulted thereafter told her that she could return to work with no restrictions.

Council Member King's Placement of Staffer-1 on Unnecessary and Unwanted, Indefinite Medical Leave Without Pay on the Basis of Staffer-1's Gender, Disability, and/or Medical Condition

- After Council Member King's harassing and discriminatory comment, Staffer-1 reported to work without interruption and neither requested, nor was in need of, any medical accommodation or medical leave. Council Member King, however, began to give Staffer-1's work responsibilities to another King staff member.

- A few weeks later, Council Member King forced Staffer-1 to take a medical leave without pay, despite Staffer-1's objections that she did not want or need to take medical leave. Indeed, without Staffer-1's knowledge or consent, Council Member King submitted paperwork to the Council to place Staffer-1 on medical leave and thereafter summoned Staffer-1 to his house for a meeting during which he directed Staffer-1 to take a thirty-day medical leave and submit a doctor's letter in support of such leave.

    - During the meeting at Council Member King's home, Council Member King told Staffer-1 the medical leave was necessary as she purportedly had told King Staff Members about her medical condition and therefore, "the damage [had] already been done," and he had to "put her out."

        - When Staffer-1 objected to the leave as unnecessary, Council Member King further admonished Staffer-1, claiming that she failed to discuss her medical

condition with him directly. Staffer-1 reminded Council Member King that she had told him earlier that month that she was bleeding excessively and needed to stop working that day to go to the hospital, and repeated to Council Member King that his response had been to tell her to put a "Band-Aid" on it. When confronted with that statement during the meeting, Council Member King's only response was "okay" and he neither denied making the statement nor claimed that he had not understood Staffer-1 to have been referring to menstrual bleeding.

    - The meeting at Council Member King's home was simultaneously recorded by Staffer-1 and that recording was introduced into evidence at the Hearing with a corresponding transcript of it.

- Based upon Council Member King's direction that Staffer-1 take medical leave and provide a doctor's letter in support of that leave, Staffer-1 felt she had no choice but to obtain the required doctor's letter or she would be fired. At Staffer-1's insistence and not because it was medically necessary, Staffer-1's doctor provided a letter supporting only a two week medical leave. Two weeks later, Staffer-1 provided another letter from her same doctor so she would be able to return to work.

- After submitting the second doctor's letter, Staffer-1 repeatedly attempted to contact Council Member King to return to work, including by calling and texting Council Member King numerous times as well as outreach to Administrative Services, but Council Member King failed to respond or communicate with Staffer-1 or Administrative Services about Staffer-1's return to work, essentially leaving her on an indefinite, unnecessary medical leave without pay.

- In or about January 2018, after Council Member King repeatedly ignored Staffer-1's numerous requests to return to work for approximately three months, Staffer-1 felt she had no choice but to resign her position.

Based on the credible testimony by Staffer-1 as described above and which was corroborated by the audio recording of the late September 2017 meeting at Council Member King's house during which Council Member King ordered Staffer-1 to take an unnecessary and unwanted medical leave, stated he had to "put her out" because she purportedly had communicated with King staff about her medical condition, and failed to deny having made the harassing and discriminatory statement toward Staffer-1, as well as emails and documents that corroborated Staffer-1's efforts to return to work and Council Member King's failure to respond to those efforts, the Committee finds that Council Member King engaged in harassment and discrimination of Staffer-1 on the basis of Staffer-1's gender, disability, and/or medical condition in violation of the Policy.

CHARGES TWO AND THREE:
CONFLICTS OF INTEREST AND DISORDERLY CONDUCT

Council Member King's Misappropriation of $2,000 of a Council One-Time Payment Directed to a Staffer

From in or about July 2019 through in or about August 2019, in violation of Chapter 68 of the City Charter and Council Rule 10.70, Council Member King engaged in conflicts of interest by using his public office as a Council Member to engage in, and directing Staffer-2 to help facilitate, misappropriation of public Council funds for his personal financial gain. Through the same conduct, Council Member King engaged in disorderly conduct in violation of Council Rule 10.80 by willfully engaging in, and through gross culpable conduct directing Staffer-2 to help facilitate, use of a Council one-time payment to engage in conversion of public Council funds, and thereby willfully violating a law relating to a Council Member's discharge of their official duties (Chapter 68 of the City Charter). Specifically, Council Member King directed the payment of an unusually large Council one-time payment to Staffer-2 and requested and received $2,000 of that payment from Staffer-2.

Credible testimony and corroborating documents at the Hearing demonstrated the following:

- In or about July 2019, Council Member King told Staffer-2 that Staffer-2 would receive something extra in Staffer-2's paycheck and that Council Member King needed Staffer-2 to give him $2,000 from that extra amount.

- On or about August 7, 2019, Staffer-2 received a one-time payment of $9,500 on top of Staffer-2's salary in Staffer-2's bi-weekly paycheck. This $9,500 amount represents the largest single one-time payment that Council Member King has ever given to a staffer in his tenure as a Council Member (since November 2012) and was significantly larger than any prior one-time payment Council Member King had ever given to Staffer-2.

- On or about August 16, 2019, Staffer-2 withdrew $5,000 in cash from Staffer-2's bank branch in Co-Op City.

- That same day, on or about August 16, 2019, there were numerous calls between Staffer-2 and Council Member King and a text from Staffer-2 to Council Member King that Staffer-2 was "[a]t co-op grabbing that." Staffer-2 testified that Staffer-2 sent that text to inform Council Member King that Staffer-2 was at Staffer-2's bank in Co-Op City withdrawing the $2,000 payment Council Member King had requested.

- Shortly after that text communication, Staffer-2 went to Council Member King's home and gave him $2,000 in cash.

Although Staffer-2's memory was imperfect, the Committee finds Staffer-2's testimony credible and corroborated by other evidence, including Staffer-2's bank records, call logs, and text messages. Moreover, Staffer-2 did not stand to benefit by coming forward and informing the Special Counsel about the $2,000 payment to Council Member King and doing so put Staffer-2 in

an unfavorable position both personally and professionally. In addition, it is unlikely to have been a coincidence that Staffer-2 was given an inordinately large one-time payment by Council Member King and had a record of a large cash withdrawal on the same day as a series of phone calls with Council Member King as well as a text message about getting something for Council Member King thus further corroborating Staffer-2's testimony. Further, Council Member King, despite extensive cross-examination of Staffer-2 by his counsel, offered no plausible alternative explanation and no contradictory evidence or testimony.

Based on this credible testimony and corroborating evidence, the Committee finds that Council Member King engaged in conflicts of interest by using his public office as a Council Member to misappropriate $2,000 of public Council funds from a one-time payment for his personal financial gain, in violation of Chapter 68 of the City Charter and Council Rule 10.80. The Committee further finds by a preponderance of the evidence that Council Member King engaged in disorderly conduct by willfully engaging in, and through gross culpable conduct directing Staffer-2 to help facilitate, use of a Council one-time payment to engage in conversion of $2,000 of public Council funds, in violation of Council Rule 10.80.

CHARGE FOUR:
VIOLATIONS OF THE RESOLUTION AND DISORDERLY CONDUCT

From in or about late November 2019 when Council Member King returned from the 30-day suspension imposed by the Council on October 28, 2019 pursuant to the Resolution continuing to the present, Council Member King demonstrated an unwillingness to comply with and hostility toward the mandates of the Resolution and violated many of its provisions.

Credible testimony and corroborating documents at the Hearing demonstrated the following:

Council Member King's Failure to Pay the $15,000 Fine

- Council Member King never paid the $15,000 fine imposed by the Resolution.

- From in or about late December 2019 through in or about early February 2020, despite the Office of the General Counsel for the Council ("OGC") offering Council Member King two reasonable fine payment plans, Council Member King through his counsel engaged in dilatory behavior and failed to negotiate in good faith a reasonable fine payment plan.

- Only after Council Member King's attorney was informed that charges likely would be forthcoming did Council Member King's attorney respond to OGC but only offered to begin paying $300 per month, an amount that would have resulted in less than half the fine being paid by the end of Council Member King's term of office.

Council Member King's Failure to Pay for and Attend Mandated Training

- In or about early February 2020, OGC met with Council Member King and his attorney and advised them that it had selected appropriate training for him to complete pursuant to the Resolution and that the cost would be $2,500. Council Member King's counsel expressed concerns regarding the cost.

- Thereafter, OGC informed Council Member King's attorney that in light of Council Member King's concerns regarding the cost of the training, OGC had negotiated with the training provider and reduced the cost to $2,000. OGC further asked that Council Member King submit a payment of $1,000 to the provider by February 11, 2020 and stated that he could pay the remainder upon completion of the training.

- Council Member King never made any payment for training and therefore never received training in violation of the Resolution.

Council Member King Refused to Cooperate with the Monitor and Abide By Express Terms of the Resolution Relating to the Monitor

- Pursuant to the Resolution, Council Member King's office became subject to a monitor (the "Monitor"). The Resolution gave the Monitor broad powers to engage in general oversight of Council Member King's office in order to ensure, as specifically delineated in the Resolution, that Council Member King's office and King Staff were appropriately managed in accordance with Council Rules and policies. The Resolution also required full cooperation by Council Member King with the work and directives of the Monitor.

- Council Member King routinely attempted to make hiring and employment status decisions without the consent of the Monitor and refused to cooperate with the Monitor's oversight of these decisions in violation of the Resolution.

    - Council Member King attempted to increase certain King Staff Members' hours and salary without notifying, consulting, or obtaining approval from the Monitor.

    - Council Member King tried to hire three additional staff members without notifying or obtaining approval from the Monitor.

    - In response to the Monitor's attempt to oversee distribution of Council cellphones to King Staff, Council Member King stated that the Monitor was trying to prevent him and King Staff from doing their jobs.

- Council Member King reacted to the Monitor's attempted oversight in an abusive, inappropriate, and/or uncooperative manner in violation of the Resolution.

    - In or about early to mid March 2020, the Monitor had a follow-up conversation about a King Staff Member Council Member King wanted to fire but who the Monitor had not wanted any action taken against as there was a pending request for a medical accommodation by that Staff Member. As testified to by the Monitor and corroborated by Staffer-3 who attended the meeting as well as Staffer-2 who overheard the tenor of the meeting, during the meeting, Council Member King yelled at the Monitor and banged his fist on his desk so loudly that Staffer-2 checked in on the meeting to ensure that everyone was safe. Council Member King also accused the Monitor of harassing him and not allowing him to do his job and cursed multiple times including by stating that the Monitor was "trying to have him fucking executed."

- When the Monitor attempted to talk to Council Member King the day after that meeting about his unacceptable treatment of her during the meeting, Council Member King denied his conduct, despite later asking Staffer-3 if he had cursed at the Monitor during the meeting. Council Member King also told the Monitor that she reminded him of his daughters and accused her of "lying to downtown" about what was happening in his office.

- Council Member King repeatedly attempted to frustrate the Monitor's ability to access, communicate with, and oversee King Staff, and routinely flouted the requirements of the Resolution that required him to cooperate with the Monitor and to permit the Monitor to attend all staff meetings.

  - After returning from his suspension in or about late November 2019, Council Member King repeatedly told King Staff he was "taking back his office."

  - In or about mid to late December 2019, Council Member King discovered the Monitor meeting privately with Staffer-3 in his office—the only private space in Council Member King's district office. Council Member King subsequently banned King Staff from entering his office when he was not present, undermining the Monitor's ability to speak with and appropriately manage King Staff.

  - In or about January 2020, Council Member King attempted to intimidate certain King Staff and deter them from cooperating with the Monitor. Council Member King asked Staffer-3 if Staffer-3 was on the "King team or the Corey team," referring to Corey Johnson, the Speaker of the City Council. Similarly, Council Member King asked Staffer-2 if Staffer-2 was on his team.

  - Council Member King disfavored King Staff Members who he perceived or suspected to be cooperating with the Monitor and/or the investigation of his post-suspension conduct, including by transferring some of Staffer-2's and Staffer-3's responsibilities to other King Staff, and by avoiding direct communication with Staffer-2 and Staffer-3.

  - On several occasions, Council Member King held *ad hoc* staff meetings at his district office at times when the Monitor was not present in the office and at the end of the day after the Monitor had left the office. At no point did Council Member King notify the Monitor in advance of these staff meetings, nor did he notify the Monitor that such staff meetings had taken place.

  - When Council Member King's scheduler set two dates for a potential meeting with the Monitor, once the Monitor left the office, he cancelled the meeting, stating, "I'm not meeting with her."

  - Once the Council began operating remotely in light of COVID-19, Council Member King held staff meetings by teleconference and repeatedly failed to notify the Monitor of such meetings.

- Council Member King repeatedly refused to respond to the Monitor's texts about his lack of cooperation with the Monitor especially when the office began to work remotely in light of COVID-19.

The Committee finds by a preponderance of the evidence—and indeed by overwhelming evidence, including both testimony and documentary evidence—that Council Member King repeatedly violated the Resolution.

Further, the Committee notes that the lengths to which Council Member King has gone to evade the sanctions and requirements of the Resolution and his abusive and threatening conduct toward the Monitor cannot be understated. In voting to impose the sanctions and requirements in the Resolution at the full Council meeting on October 28, 2019, the Chair of the Committee stated that a more serious sanction than suspension "should be reserved for cases in which we don't think we have any alternatives." Unfortunately, the Committee finds that Council Member King has shown a blatant disregard for the Resolution and the policies and rules of the Council such that the Committee is without any viable alternative other than the sanction of removal as explained below in the Statement of the Committee's Reasons for the Proposed Sanction and as set forth in the proposed Resolution annexed hereto as Appendix A and incorporated herein.

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I. INTRODUCTION

Council Member Andy King ("Council Member King") is the duly elected representative from the 12th Council District, which serves certain communities in the North Bronx, New York. Council Member King took office on November 7, 2012 and was re-elected to the position in November 2013 and November 2017. Council Member King currently is serving his second term of office.

On or about February 14, 2020, the New York City Council (the "Council"), Committee on Standards and Ethics (the "Committee") adopted four charges against Council Member King that arose out of, and pertain to, conduct by Council Member King that, if substantiated, violated Council policy, Council Rules, and the New York City Charter (the "Charges"). The Charges alleged the following: (1) Harassment and Discrimination in violation of the Council's Anti-Discrimination and Harassment Policy (the "Policy"); (2) Conflicts of Interest in violation of Chapter 68 of the New York City Charter ("Chapter 68 of the City Charter") and Council Rule 10.70; (3) Disorderly Conduct in violation of Chapter 68 of the City Charter; and (4) violations of Council Resolution No. 1138-2019 (the "Resolution") and Disorderly Conduct in violation of Council Rule 10.80.

The Committee, being duly empaneled and proceeding in Executive Session, convened for a disciplinary hearing concerning the Charges on June 22, June 29, July 7, and July 17, 2020 (the "Hearing"). The evidence at the Hearing was presented by Special Counsel to the Council, Carrie H. Cohen, Morrison & Foerster LLP ("Special Counsel"), assisted by Amanda Gayer, Morrison & Foerster LLP. Council Member King and his attorneys attended all days of the Hearing and were provided with a full and fair opportunity to be heard and to challenge the Charges and the evidence against him. Upon due and full consideration of the testimony and documents admitted into evidence at the Hearing, and for the reasons set forth below, the Committee finds that Charges One through Four against Council Member King have been substantiated and makes a recommendation to the Council for the appropriate penalty.

II. PROCEDURAL BACKGROUND

A. Prior Sanctions Against Council Member King

On or about March 13, 2019, the Committee voted to open a disciplinary matter regarding allegations against Council Member King and his office (the "2019 Matter").[2] In or about late August 2019, the Committee adopted four charges against Council Member King, which were superseded in or about early September 2019 (the "2019 Charges"). The 2019 Charges pertained to alleged violations of the Policy, Council Rules, and Chapter 68 of the City Charter, and included: (1) Retaliation; (2) Conflicts of Interest; (3) Disorderly Conduct; and (4) Harassment and Discrimination. The Committee held a disciplinary hearing to resolve the 2019 Charges on

[2] Prior to the 2019 Matter, in or about 2017, a complaint was filed against Council Member King alleging that he had engaged in gender-based harassment in violation of the Policy. After an investigation of that complaint, in or about early 2018, Council Member King was found to have violated the Policy including by engaging in unwelcome conduct toward the complainant. As a result, Council Member King attended training paid for by the Council.

September 13 and September 16, 2019 (the "2019 Hearing"). Following the 2019 Hearing, the Committee found the 2019 Charges to be substantiated and issued a report that set forth the Committee's findings of fact and conclusions as well as a proposed resolution that included recommended sanctions against Council Member King (the "2019 Report").

On October 28, 2019, at a public Stated Meeting, the Council voted (44 to 1 with 2 abstentions (Council Member King was the lone dissenting vote)) to adopt the Resolution, which imposed the Committee's recommended sanctions upon Council Member King. In addition to a 30-day suspension, such sanctions included appointment of a monitor in Council Member King's office for the remainder of Council Member King's term in office in order to ensure that staff in Council Member King's office ("King staff") were appropriately managed in accordance with Council Rules and Council policies (the "Monitor"); a requirement that Council Member King pay for and attend an appropriate training as determined by the Council's Office of the General Counsel ("OGC"); and that Council Member King pay a $15,000 fine.

B. Current Proceedings

At the time of the Council's consideration of the Resolution, and shortly thereafter, several additional witnesses came forward and contacted the office of the Special Counsel and the Monitor to report new allegations of misconduct by Council Member King that had not been part of the 2019 Matter. Some of these new allegations were alleged to be ongoing as they related to Charge Four, and other new allegations related to Charges One, Two and Three had occurred prior to the conclusion of the 2019 Matter. In light of these newly-reported allegations of misconduct by Council Member King, on or about January 15, 2020, the Committee voted to open another disciplinary matter regarding these allegations against Council Member King and his office (the "2020 Matter"). Pursuant to the 2020 Matter, the Special Counsel reviewed documents and interviewed numerous witnesses.

On or about February 14, 2020, the Committee adopted the four Charges against Council Member King and set an initial date of March 9, 2020 for the Hearing. The Charges alleged the following against Council Member King: (1) Harassment and Discrimination in violation of the Policy; (2) Conflicts of Interest in violation of Chapter 68 of the City Charter and Council Rule 10.70; (3) Disorderly Conduct in violation of Chapter 68 of the City Charter; and (4) violations of the Resolution and Disorderly Conduct in violation of Council Rule 10.80.

Throughout the Hearing, Council Member King repeatedly challenged the validity of the Charges on the basis that no Summary of Investigation was prepared as is permitted under the Procedures for Disciplinary Matters Related to Council Members (the "Disciplinary Procedures").[3] Pursuant to the Disciplinary Procedures, however, a Summary of Investigation is not a mandatory prerequisite to the approval of charges. Rather, if a Summary of Investigation is prepared, then the Disciplinary Procedures provide a mechanism for a Respondent to review a copy of it. Accordingly, the Committee rejects any suggestion by Respondent that the Charges were in any way flawed or invalid based on the absence of a Summary of Investigation as such

[3] Hearing Transcript ("Tr.") at 280:16-281:11.

Summary is neither mandatory nor necessary in order for the Committee to determine that sufficient evidence exists to warrant adoption of charges against a Council Member.

The Notice of Charges and Hearing, along with a copy of the Charges and the Disciplinary Procedures were served on Council Member King directly and through his counsel on or about February 14, 2020 and multiple times thereafter. Pursuant to Paragraph 18 of the Disciplinary Procedures, Council Member King was permitted, but not required, to serve a written Answer to the Charges on the Committee by February 24, 2020. Although represented by counsel, he failed to do so.

Pre-pandemic, on or about March 5, 2020, in response to requests by Council Member King's counsel for an indefinite adjournment of the Hearing, the Hearing date was adjourned from March 9, 2020 to April 3, 2020. At the beginning of the pandemic, on or about March 30, 2020, in response to requests by Council Member King's counsel for a further indefinite adjournment of the Hearing and in light of the growing public health issues surrounding COVID-19, the Committee granted a second adjournment of the Hearing to April 30, 2020. At that time, the Special Counsel notified Council Member King's counsel that in light of the public health issues surrounding COVID-19, the Hearing most likely would need to be held virtually, and that the Council and the Special Counsel would provide assistance to Council Member King and his counsel to ensure that they had the appropriate technology to participate in the Hearing remotely.

On or about April 22, 2020, in response to continued requests by Council Member King's counsel for a further indefinite adjournment of the Hearing and to afford Council Member King's counsel with additional time to manage logistical issues associated with remote work, the Committee granted a third adjournment of the Hearing to June 2020. On or about May 5, 2020, Council Member King's counsel was informed that the Hearing had been set for June 4, 2020 and that as the COVID-19 pandemic had no known timeline or end date, the Council could not adjourn the Hearing indefinitely but would proceed virtually. The Special Counsel reiterated that the Council and the Special Counsel would provide assistance to Council Member King and his counsel to ensure that they had the appropriate technology to participate in the Hearing remotely.

On or about May 26, 2020, the Special Counsel was informed that Council Member King had retained additional counsel and now would have two attorneys representing him. On or about May 27, 2020, a copy of the Procedures for the Virtual Disciplinary Hearing *In re the Disciplinary Matter (2) of Council Member Andy King* (the "Virtual Hearing Procedures") was served on Council Member King's counsel. Council Member King's counsel was informed that upon request, the Council's virtual technology vendor could provide a training session for the virtual platform through which the Hearing would be conducted.

On or about May 28, 2020, pursuant to the Disciplinary Procedures that provide for pre-Hearing disclosure by the Council of all persons interviewed in connection with the 2020 Matter, the Special Counsel timely served (based on the June 4 hearing date) a Disclosure of Interviewees on Council Member King's counsel. Pursuant to the Disciplinary Procedures that provide for pre-Hearing exchange of a Disclosure of Exhibits with marked copies of proposed exhibits, on or about May 28, 2020, the Special Counsel also timely served (again based on the June 4 hearing date) a Disclosure of Exhibits with marked copies of known proposed exhibits on Council Member King through counsel. Thereafter and including during the Hearing, the Special Counsel served

additional exhibits on Council Member King through counsel in accordance with the Disciplinary Procedures, which provide that "[a]dditional evidence may be introduced as appropriate at the Hearing." Council Member King did not serve any Disclosure of Exhibits or marked copies of any proposed exhibits as provided for in the Disciplinary Procedures.

On or about May 29, 2020, in response to requests by Council Member King's newly-retained additional counsel for further time to prepare after recently being retained in connection with this matter, and in light of that recently-retained counsel's apparent scheduling conflict on June 4, 2020 as well as the ongoing COVID-19 pandemic, the Hearing was adjourned a fourth time to June 19, 2020. On or about June 2, 2020, in response to Council Member King's continued objections to proceeding remotely and demands for an indefinite adjournment of the Hearing until it could be held in person, the Special Counsel reiterated to Council Member King's counsel that in light of the ongoing nature of the COVID-19 pandemic, the Hearing would be held virtually by video teleconference. Council Member King continued to object and demand that the Hearing be adjourned indefinitely to a time when it could be held in person. On or about June 12, 2020, the Committee adjourned the Hearing for one last time to June 22, 2020.

On June 17, 2020, pursuant to the Disciplinary Procedures that provide for pre-Hearing exchange of a Disclosure of Witnesses each party may call to testify at the Hearing, the Special Counsel timely served a Disclosure of Witnesses on Council Member King's counsel. Council Member King did not serve any Disclosure of Witnesses as provided for in the Disciplinary Procedures.

C. The Hearing

On or about June 10, 2020 and continuing thereafter up to the date of the Hearing, Council Member King's counsel represented to the Special Counsel that neither they nor Council Member King would participate in the Hearing. Nevertheless, Council Member King and his counsel were provided access information to attend the Hearing as well as continued offers of assistance with any technology concerns or questions.

On or about June 16, 2020, Council Member King filed an emergency petition for an order to show cause in New York Supreme Court in an attempt to stay the Hearing until it could be held in person. Council Member King's petition was not filed properly and therefore was rejected by the Court.

As noticed, the Hearing began on June 22, 2020 before the Committee and continued on dates agreed to by the parties on June 29, July 7, and July 17, 2020. The Hearing was held with public notice in Executive Session virtually via Zoom. Despite prior representations to the contrary, Council Member King and both of his counsel attended each day of the Hearing and fully participated in it. Indeed, Respondent's counsel noted for the record that they had had concerns regarding moving forward with the Hearing virtually, but ultimately chose to proceed with the Hearing.[4] At no time during the Hearing did Respondent object to the format of the Hearing or

[4] Tr. at 17:12-20.

proceeding virtually and, as the record of the Hearing reflects, Respondent and his two attorneys fully participated in the Hearing with a full and fair opportunity to defend against the Charges.

III. NOTICE AND DUE PROCESS

As was noted at the Hearing by Council Member Steven Matteo, Chair of the Committee ("Chair Matteo"), the Committee made "extraordinary efforts" to "assure due process to Council Member King."[5] Specifically, after Council Member King's suspension in late October 2019 pursuant to the Resolution through February 2020, the OGC diligently sought to arrange for Council Member King to pay the $15,000 fine and pay for and attend the training required pursuant to the Resolution, but Council Member King and his counsel "refused to respond to those efforts in any meaningful way and ultimately ignored and failed to respond" to the OGC's requests.[6]

Chair Matteo further outlined at the Hearing that, as detailed above, Council Member King's counsel engaged in a pattern of dilatory behavior designed to delay the Hearing indefinitely and frustrate the Council's disciplinary process—Council Member King's counsel repeatedly requested indeterminate adjournments of the Hearing, demanded an in-person hearing, and objected to proceeding virtually even when it became evident that the COVID-19 public health crisis would be longstanding, and requested additional time to prepare and added additional counsel in late May less than a week before the start of the Hearing who likewise requested additional time and an adjournment on the basis of an apparent scheduling conflict.[7] To accommodate all of these requests, whether valid or not, the Committee granted four adjournments of the Hearing date—from March 9, 2020, to April 3, 2020, to April 30, 2020, to June 4, 2020, and finally to June 22, 2020—and Council Member King's counsel were advised repeatedly that the Hearing could not be adjourned indefinitely and that the Committee anticipated holding the Hearing virtually in light of COVID-19.[8]

Despite objecting to a virtual hearing prior to the commencement of the Hearing and attempting to prevent the Hearing from going forward by seeking court intervention, Council Member King failed to refile his lawsuit properly and instead informed the Committee that he chose instead to appear and participate in the Hearing. Respondent did not object to the virtual format at any time during the Hearing and fully participated through counsel at the Hearing.

Council Member King's attorneys also repeatedly were provided with the Disciplinary Procedures and reminded by the Special Counsel of the deadlines and requirements thereunder, but nonetheless largely failed to follow or avail themselves of those Disciplinary Procedures and

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[5] Tr. at 4:4-5. As more fully set forth below, the correspondence admitted as Council Exhibit ("CX")-57, CX-58a-b and CX-59, as well as the timeline summary provided on CX-56 for identification, demonstrate that the Council made every effort to engage with Council Member King regarding payment of the fine and the training required under the Resolution.

[6] Tr. at 4:9-18.

[7] Tr. at 4:19-6:14.

[8] Tr. at 4:19-6:14.

Virtual Hearing Procedures, deadlines, and requirements, except to serve (belatedly) three pre-marked exhibits that might be introduced at the Hearing.

On numerous occasions beginning when Council Member King's counsel was notified of the Charges and continuing throughout the Hearing, Council Member King's attorneys made broad based demands for discovery of certain documents. Council Member King's attorneys repeatedly were informed by the Special Counsel that the Disciplinary Procedures did not provide for such discovery and instead provided for pre-hearing disclosure of individuals who were interviewed during the course of an investigation, exhibits either party might seek to introduce into evidence at a hearing, and the identity of any individual either party might seek to call as a witness at a hearing. Accordingly, the Committee rejects Council Member King's repeated arguments during the Hearing that the failure to provide discovery was improper or, as Respondent claimed on multiple occasions, evidence of misconduct by the Special Counsel. To the contrary, the Committee finds that the Special Counsel adhered to the Disciplinary Procedures in all respects and did not engage in any misconduct and that the Disciplinary Procedures afforded Council Member King sufficient information from which to defend against the Charges. The Committee further notes that while the Special Counsel fully complied with the Disciplinary Procedures, Council Member King never served an Exhibit List and did not provide pre-marked exhibits prior to the Hearing as required by the Disciplinary Procedures. Nevertheless, Chair Matteo afforded Council Member King the opportunity to present evidence and witnesses at the Hearing.

IV. RELEVANT COUNCIL POLICY, COUNCIL RULES, AND CHAPTER 68 OF THE CITY CHARTER

In relevant part, the Council's Anti-Discrimination and Harassment Policy prohibits unwelcome, vulgar, derogatory, and/or hostile language in reference to a Council staff member's gender, disability, and/or medical condition. Harassment and discrimination include speech, conduct, and/or adverse employment action on the basis of a protected category as defined in the Policy. Charge One of the Charges alleges that Council Member King violated this Policy by verbally harassing Staffer-1 and taking adverse employment action against Staffer-1 based on her gender, disability, and/or medical condition.

Chapter 68 of the City Charter and Council Rule 10.70 both prohibit conflicts of interest for Council Members, including prohibiting Council Members from using their position as public servants to obtain and use public funds for their own personal financial gain. Charge Two of the Charges alleges that Council Member King violated Chapter 68 of the City Charter and Council Rule 10.70 by engaging in, and directing Staffer-2 to help facilitate, the misappropriation of Council funds.

Council Rule 10.80 prohibits disorderly conduct, including willful violation or evasion of any law related to a Council Member's discharge of their official duties; commission of fraud upon the City of New York; conversion of public property to a Council Member's own use; or knowingly permitting, or allowing by gross culpable conduct, any other person to convert public property. Charge Three of the Charges alleges that Council Member King violated Council Rule 10.70 by willfully committing conversion of public Council funds for his own use and through gross culpable conduct knowingly directing Staffer-2 to facilitate Council Member King's conversion of public Council funds.

The Resolution and Council Rule 10.80 both prohibit willful violation of the terms and conditions of the Resolution. Charge Four of the Charges alleges that Council Member King violated the binding sanctions and terms and conditions of the Resolution and Council Rule 10.80 through engaging in disorderly conduct by violating the Resolution.

V. RELEVANT PERSONS

Relevant King Staff and other relevant Council staff are identified as follows:[9]

A. King Staff Member-1 ("Staffer-1") was hired by Council Member King in or about October 2016 and was an employee of the Council until in or about January 2018.[10] During Staffer-1's employment, Staffer-1 worked in the office of Council Member King.[11] Staffer-1 appeared at the Hearing and testified before the Committee on July 7, 2020.

B. King Staff Member-2 ("Staffer-2") was hired by Council Member King in or about December 2012 and continues to work in the office of Council Member King in a role that includes management of Council Member King's office. Staffer-2 appeared at the Hearing and testified before the Committee on June 22, June 29, and July 7, 2020 pursuant to a Subpoena issued by the Committee (*see* CX-40) that commanded Staffer-2 to appear at the Hearing to testify before the Committee.

C. King Staff Member-3 ("Staffer-3") was hired by Council Member King in or about May 2019 and continues to work in the office of Council Member King in a role that includes management of Council Member King's office. Staffer-3 appeared at the Hearing and testified before the Committee on June 22, 2020 pursuant to a Subpoena issued by the Committee (*see* CX-39) that commanded Staffer-3 to appear at the Hearing to testify before the Committee.

D. King Staff Member-4 ("Staffer-4") at all times relevant was and remains an employee of the Council working in the office of Council Member King.

E. King Staff Member-5 ("Staffer-5") at all times relevant was and remains an employee of the Council working in the office of Council Member King.

F. King Staff Member-6 ("Staffer-6") at all times relevant was and remains an employee of the Council working in the office of Council Member King.

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[9] In order to protect identities and prevent retaliation by Council Member King against current and former staff and consistent with the Policy, current and former King Staff Members are referred to herein by number (*e.g.*, "Staffer-#") and defined in the Relevant Persons section or are referred to in general as "King Staff" or "King Staff Members."

[10] Tr. at 369:17.

[11] Tr. at 368:2-3.

G. King Staff Member-7 ("Staffer-7") at all times relevant was and remains an employee of the Council working in the office of Council Member King.

H. King Staff Member-8 ("Staffer-8") is a former employee of the Council and at all times relevant was an employee of the Council working in the office of Council Member King.

I. Camille Francis ("Ms. Francis") is employed by the Council as the Deputy Director of Administrative Services. Ms. Francis appeared at the Hearing and testified before the Committee on July 7, 2020.

J. Tamikka Pate ("Ms. Pate") is employed by the Council as an Assistant General Counsel in the OGC. Ms. Pate also serves as the Monitor pursuant to the Resolution. Ms. Pate appeared at the Hearing and testified before the Committee on July 17, 2020.

K. Charles Davis ("Mr. Davis") is employed by the Council as the Chief Compliance Officer. Mr. Davis served as the interim monitor in Council Member King's office prior to Ms. Pate becoming the Monitor.

L. King Staff Candidate-1 ("Candidate-1") at all times relevant was not employed by the Council.

M. King Staff Candidate-2 ("Candidate 2") at all times relevant was not employed by the Council.

VI. FINDINGS OF FACT AND CONCLUSIONS

Pursuant to the Disciplinary Procedures, in making findings of fact, the Committee evaluated the evidence at the Hearing under a "preponderance of the evidence" standard. Preponderance of the evidence means that the Special Counsel had the burden to prove that each Charge was more likely than not. Stated another way, a preponderance of the evidence means the greater weight of the evidence, such that here for each Charge, the Special Counsel had to convince the Committee that there was a greater than 50% chance that the Charge was true. In determining whether a Charge was proven by a preponderance of the evidence, the Committee considered the relevant testimony of all witnesses, including their demeanor and credibility, and the exhibits received in evidence.

The Committee found the witnesses who testified at the Hearing to be credible. Each witness was fully cross-examined by Council Member King's attorneys who both were permitted to cross-examine each witness and both attorneys were given wide latitude for such examinations. Each witness testified in a direct and candid manner,[12] were able to recall the relevant incidents in sufficient detail, and gave consistent testimony that often was corroborated by other witnesses and

[12] The Committee notes that Respondent raised challenges to the credibility of certain witnesses, particularly with respect to Staffer-2 and Charges Two and Three. These credibility-related issues are addressed in the Committee's Findings of Fact and Conclusions as to those Charges as set forth below.

documents admitted into evidence. Council Member King elected not to call any witnesses and not to introduce any exhibits into evidence at the Hearing.

A. CHARGE ONE: HARASSMENT AND DISCRIMINATION

1. As fully set forth below, the evidence at the Hearing demonstrated by a preponderance of the evidence that, from in or about September 2017 through in or about January 2018, in violation of the Council's Anti-Discrimination and Harassment Policy, Council Member King engaged in harassment and discrimination by using unwelcome, vulgar, derogatory, and/or hostile language in reference to Staffer-1's gender, disability, and/or medical condition, and subsequently taking adverse employment action against Staffer-1 on the basis of her gender, disability, and/or medical condition, as alleged in Charge One of the Charges.

i. Council Member King's Harassing and Discriminatory Comments Regarding Staffer-1's Gender, Disability, and/or Medical Condition

2. Staffer-1 testified that on or about Saturday, September 2, 2017, at Council Member King's request, she went with Council Member King to a restaurant in the Bronx for an interview Council Member King had with a disc jockey.[13] Before the interview, while standing with Council Member King across from the restaurant, Staffer-1 informed Council Member King that she felt unable to continue working that day and needed to go to the hospital because she had been bleeding for more than a month.[14] While explaining that she had been bleeding for more than a month, Staffer-1 gestured to her genital area.[15] In response, Council Member King told Staffer-1 to "put a Band-Aid on it" and laughed.[16]

3. Staffer-1 testified that when she gestured to her genital area and stated to Council Member King that she had been bleeding for more than a month, she was referring to abnormally heavy menstrual bleeding caused by polycystic ovarian syndrome, a medical condition from which she suffers.[17]

4. The Committee found Staffer-1's testimony regarding her interaction with Council Member King outside the Bronx restaurant on or about September 2, 2017 to be credible. Based upon Staffer-1's credible testimony that she stated to Council Member King that she had been bleeding for more than a month and gestured to her genital area, the Committee finds that Council Member King understood that Staffer-1 was referring to menstrual bleeding. The Committee was not persuaded by Respondent's attempts to discredit Staffer-1's testimony by suggesting Staffer-

[13] Tr. at 370:9-19; CX-1 (9/1/2017 Staffer-1 Screenshot of Text Messages); CX-2 (9/1/2017 Staffer-1 Screenshot of 9/2/2017 Schedule).

[14] Tr. at 370:9-15.

[15] Tr. at 370:15-16.

[16] Tr. at 370:16-17, 371:6-9.

[17] Tr. at 371:10-21, 378:3-6; CX-3 (9/2/2017 Staffer-1 Hospital Records).

1 would not have gestured to her genital area in a public setting.[18] The Committee further rejects the apparent suggestion by Respondent's counsel, that even if Staffer-1 had not gestured to her genital area, Council Member King might not have understood that Staffer-1 was referring to vaginal bleeding and somehow might have thought Staffer-1 had been bleeding from somewhere else for more than a month.[19] Even without the gesture, the Committee finds that it was clear from Staffer-1's statement to Council Member King that she had been bleeding for more than a month that she was referring to menstrual bleeding.

5. Staffer-1 testified that even though she told Council Member King she needed to go to the hospital, she still proceeded to assist Council Member King with the interview.[20] After the conclusion of the interview, Staffer-1 left the restaurant and went directly to the Emergency Room at Montefiore Medical Center ("Montefiore" or the "hospital") to seek medical treatment for vaginal bleeding.[21] At the hospital, Staffer-1 was triaged, underwent an ultrasound, and remained under observation for approximately three and a half hours.[22] Staffer-1 was diagnosed with abnormal vaginal bleeding and was released from the hospital the same day.[23] Upon being discharged, Staffer-1 was instructed to follow up with her doctor and was told that she could return to work with no restrictions.[24]

6. Staffer-1's testimony regarding her hospital visit was not disputed and was corroborated by her hospital records admitted into evidence as CX-3. The Committee finds Respondent's attempts to discredit Staffer-1's need to go to a hospital by claiming that she could have chosen a closer hospital unavailing especially as Staffer-1 explained in response to such questions that she did not "pass by" any other hospital and that she chose the hospital that typically has a shorter emergency room wait time.[25]

7. Staffer-1 testified that in compliance with the instructions she received upon her discharge from the hospital, Staffer-1 followed up with her own doctor, who changed her medication and confirmed that she could return to work with no restrictions.[26] Accordingly, Staffer-1 reported to work at Council Member King's office on the next scheduled workday

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[18] Tr. at 420:6-13.

[19] Tr. at 31:2-32:13. The Committee notes that Respondent's counsel's questions to witnesses as well as statements made by his counsel to the Committee both during and after questioning of witnesses and in opening and closing statements are not evidence. Nonetheless, where appropriate, arguments made by Counsel Member King's counsel through their questions, statements, and arguments will be addressed herein as they were fully considered by the Committee.

[20] Tr. at 371:22-25.

[21] Tr. at 371:22-372:2, 374:19-20, 377:22-378:2; CX-3 (9/2/2017 Staffer-1 Hospital Records).

[22] Tr. at 374:21-25.

[23] Tr. at 375:2-7; CX-3 (9/2/2017 Staffer-1 Hospital Records).

[24] Tr. at 375:8-16, 378:10-17, 378:23-379:3; CX-3 (9/2/2017 Staffer-1 Hospital Records).

[25] Tr. at 450:24-452:2.

[26] Tr. at 378:18-379:3.

following her visit to the hospital on Saturday, September 2, 2017, which was a Tuesday because Monday of that week was Labor Day.[27] Staffer-1 reported to work that entire week beginning on Tuesday and did not request any time off as she was fully able to work without restrictions.[28] Such testimony was undisputed.

ii. Council Member King's Subsequent Harassment and Discrimination Against Staffer-1 Based on Staffer-1's Gender, Disability, and/or Medical Condition

(a) Council Member King's Adverse Treatment of Staffer-1 and Reduction of Staffer-1's Responsibilities.

8. Staffer-1 testified that following the September 2, 2017 incident in which she told Council Member King that she felt unable to continue working and needed to go to a hospital because she had been bleeding for more than a month and Council Member King told her to put a "Band-Aid on it" and laughed, as described in Paragraph 2 above, Council Member King's demeanor toward her changed in that he became distant and was not as approachable as he had been with Staffer-1 in the past.[29]

9. Staffer-1 testified that about three weeks later, on or about Sunday, September 24, 2017, during a press conference in the Bronx, Staffer-1 offered to perform a task that normally was within the scope of her responsibilities, but Council Member King told Staffer-1 not to complete the task and stated that Staffer-8 would handle it instead.[30] Based upon this interaction, Staffer-1 perceived that her responsibilities were being shifted to Staffer-8 and therefore suspected that Council Member King planned to terminate her employment or make other adverse changes to her role and job responsibilities.[31]

(b) Council Member King's Placement of Staffer-1 on Unnecessary and Unwanted Medical Leave

10. Staffer-1 testified that the week after that Sunday event, on or about September 29, 2017, she received a phone call from an Administrative Services representative who worked "downtown" at the Council's offices at 250 Broadway.[32] Staffer-1 testified that during this call, she was asked to provide medical documents in order to process a request for medical leave. Staffer-1 responded that she had not requested any medical leave and was told that Administrative

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[27] Tr. at 379:4-10.

[28] Tr. at 379:8-17.

[29] Tr. at 379:18-25.

[30] Tr. at 380:4-17.

[31] Tr. at 380:18-24.

[32] Tr. at 381:7-10.

Services had a request from Council Member King for her medical leave and that she thus should speak with Council Member King.[33] When showed a leave without pay form with Staffer-1's name on it, dated September 27, 2017 (two days prior to receiving the call from Administrative Services) and bearing Council Member King's signature and the initials "AK" (CX-4) (which Ms. Francis confirmed was Council Member Andy King's signature and initials),[34] Staffer-1 testified that she did not recognize it.[35] Based on such evidence, which was not rebutted in any way, the Committee concludes that Council Member King submitted the paperwork for and approved a medical leave for Staffer-1 without any request for such medical leave by Staffer-1 or discussion with Staffer-1.

11. Staffer-1 testified that approximately one to two hours later on that same day, on or about September 29, 2017, in Council Member King's district office,[36] she was informed that Council Member King wanted to speak with her at Council Member King's house.[37] Staffer-1 thus went to Council Member King's house that day to meet with Council Member King.[38]

12. Staffer-1 testified that based upon the telephone call from Administrative Services that she had received earlier that day during which she was told Council Member King had submitted a request for her to take a medical leave about which she had no prior knowledge, as described in Paragraph 10 above, as well as the work event on or about September 24, 2017 during which she perceived that Council Member King was transferring her job duties to Staffer-8 as described in Paragraph 9 above, Staffer-1 believed something was wrong with respect to her job or employment status and feared that Council Member King planned to terminate her employment during the meeting at his house.[39] Staffer-1 therefore decided to use her cellphone to record her conversation with Council Member King at his house in the hope that by memorializing the conversation she would have a record of what transpired.[40]

13. Staffer-1 testified that during the meeting with Council Member King at his house on or about September 29, 2017, Council Member King directed Staffer-1 to take a 30- day medical leave and instructed her to submit a doctor's letter to do so[41] (testimony by Ms. Francis explained that the Council requires submission of a doctor's letter in order to approve any request for medical

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[33] Tr. at 381:7-14.

[34] Tr. at 472:5-12.

[35] Tr. at 388:22-389:3; CX-4 (9/27/2017 Staffer-1 Leave Paperwork).

[36] Tr. at 381:15-18, 382:14-19, 382:25-383:5.

[37] Tr. at 381:15-18.

[38] Tr. at 381:15-18, 383:2-5.

[39] Tr. at 380:18-24, 385:2-3, 385:9-15.

[40] Tr. at 385:4-8.

[41] Tr. at 382:21-24; CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

leave).[42] Staffer-1 responded that she did not need any time off from work and that she had already seen her doctor who changed her medication to address the excessive menstrual bleeding.[43]

14. As set forth below, Staffer-1 further testified about the meeting at Council Member King's house, and the tape recording of that meeting (CX-6 with corresponding transcript CX-6T) corroborated that testimony as follows:

a. Council Member King expressed extreme disapproval that Staffer-1 allegedly had spoken with other King Staff about her medical condition rather than speaking with him about it directly—Council Member King told Staffer-1 that "[t]he best way [to handle] a medical issue – is talk to your principal [], not telling everybody who will listen to what you have to say."[44] Staffer-1 explained she had not told "everybody" about her medical condition, and tried to explain that she acted reasonably and appropriately by disclosing her medical condition to a King Staff Member in order to explain why she needed to leave an event to change her clothes.[45]

b. Despite Staffer-1's explanation, Council Member King conveyed that because Staffer-1 purportedly had spoken with other King Staff about her medical condition, Staffer-1 was a liability and he therefore needed to "put her out."[46] Council Member King stated that Staffer-1 should take medical leave and work on her health[47] and explained that "now too many people know about it so now this is the way it has to be handled."[48] Staffer-1 understood Council Member King's statement that he had to "put her out" to mean that she was being fired,[49] so Staffer-1 asked Council Member King if she was being placed on medical leave or if she was being fired.[50] Council Member King did not provide any definite answer to Staffer-1's question and instead repeated that Staffer-1 needed to take a 30-day medical leave, and that after that 30 day leave Staffer-1 and Council Member King would discuss Staffer-1's employment status.[51]

c. Based on the words and tone used by Council Member King, as fully audible on the tape recording of that meeting, the Committee finds that Council Member King was not interested in having a productive conversation with Staffer-1 and instead already had determined to put her out on medical leave as was corroborated by the paperwork submitted by Council Member King placing Staffer-1 on a medical leave prior to summoning her to his house

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[42] Tr. at 472:20-25.

[43] Tr. at 384:4-8; CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

[44] CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

[45] CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

[46] CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

[47] Tr. at 383:14-23; CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

[48] CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

[49] Tr. at 387:13-23.

[50] Tr. at 383:6-10; CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

[51] Tr. at 383:11-16; CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

for the meeting. Moreover, Council Member King spoke to Staffer-1 in a belittling, threatening, and abusive manner, even stating that he needed to "put her out" and at one point that "the damage has already been done."[52] The Committee further finds that summoning Staffer-1 to his house for such conversation during the workday, rather than speaking with her in his office where she had been present that day, further increased the intended intimidation and is evidence that Council Member King knew that what he was doing was wrong.

d. In response to Council Member King's accusing Staffer-1 of telling others and not him about her medical condition, Staffer-1 reminded Council Member King that she had informed him directly that she was experiencing excessive menstrual bleeding when they were outside the restaurant in the Bronx and that in response he had joked that she should put a "Band-Aid" on it.[53] Council Member King responded simply, "okay," and did not deny that he had told Staffer-1 to "put a Band-Aid on it."[54] Nor did Council Member King try to claim that he had not had knowledge that the bleeding to which Staffer-1 had been referring was menstrual bleeding.[55] The Committee finds Council Member King's failure to deny having made the Band-Aid statement during the meeting credible evidence that he in fact had said it. The Committee further finds that Council Member King's failure to claim during the meeting that he had not understood outside the restaurant that Staffer-1 was referring to menstrual bleeding rebuts claims by Respondent's attorneys that, in the alternative, Council Member King had not understood Staffer-1 to be referring to menstrual bleeding at the time he made the comment "put a Band-Aid on it" and laughed. In addition, the Committee finds that Staffer-1's failure during the meeting to specifically reference that she had gestured toward her genital area outside the restaurant further supports an inference that Staffer-1 believed Council Member King already understood she was referring to menstrual bleeding.

15. The Committee found Staffer-1's testimony regarding the above-described meeting at Council Member King's house on or about September 29, 2017, as described in Paragraphs 13-14, to be credible even without the corroborating tape recording of it.

16. The Committee further was not persuaded by Respondent's suggestions that Staffer-1 had somehow orchestrated the recorded conversation in order to set up Council Member King.[56] Staffer-1 credibly testified that Staffer-1 was summoned to Council Member King's house and recorded the conversation in order to create a record of what transpired. Indeed, there was no evidence presented to suggest that Staffer-1 ever attempted to use the recording to obtain any benefit for Staffer-1—Staffer-1 never internally complained to the Council about Council Member

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[52] CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

[53] Tr. at 384:8-18. *See* CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

[54] Tr. at 384:11-21. *See* CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

[55] Tr. at 384:11-21. *See* CX-6 (9/29/2017 Staffer-1 Recording); CX-6T (Transcript of 9/29/2017 Staffer-1 Recording).

[56] Tr. at 420:18-22.

King's conduct, filed any claims or complaints with any federal, state, or local agency against Council Member King or the Council, never filed any lawsuit against Council Member King or the Council, and never made any claim for unemployment benefits. The Committee notes that Respondent's suggestion that Staffer-1 intended to use the recording to "pin him down" or was "setting him up" is further undermined by the fact that, as Respondent noted, Staffer-1 did not go out of her way to specify that she had been referring to menstrual bleeding during the meeting,[57] which arguably she would have stated if she was setting him up.

17. Respondent argued through cross-examination of Staffer-1 and in opening and closing statements that Council Member King had a legitimate reason for directing Staffer-1 to take medical leave. Specifically, Respondent argued that he was trying to protect Staffer-1's health and the Council by requiring her to take medical leave. The Committee rejects this argument as against the weight of the evidence. Council Member King's words, including his tone, and the circumstances surrounding the meeting at his house as described above, inferences to be drawn from the timing of events including his submission of medical leave form for Staffer-2 without her request, knowledge, or consent, and other evidence regarding Council Member King's conduct toward Staffer-1 as described above and below, demonstrate that Council Member King did not act out of concern for Staffer-1's health or any alleged liability for the Council. Rather, the facts and circumstances surrounding Staffer-1's leave demonstrate by a preponderance of the evidence that Council Member King acted with an impermissibly harassing and discriminatory purpose based on Staffer-1's gender, disability, and/or medical condition, including, but not limited to, the language and tone used by Council Member King and the circumstances of his meeting with Staffer-1 at his house.[58]

(c) Staffer-1's Medical Leave

18. Staffer-1 testified that on or about October 2, 2017,[59] following the meeting with Council Member King at his house on or about September 29, 2017, Staffer-1 went to her doctor to request a letter per Council Member King's instruction during that meeting.[60] Staffer-1's doctor was reluctant to provide a letter recommending that Staffer-1 take 30 days off from work because Staffer-1's doctor did not believe Staffer-1 needed any time off.[61] Staffer-1 explained, however, that her boss, Council Member King, had demanded that she take a 30-day medical leave because of her medical condition.[62] Accordingly, Staffer-1's doctor ultimately agreed to provide a letter supporting two weeks, not 30 days, off from work.[63] Nowhere in the letter does the doctor indicate that Staffer-1's medical condition necessitated any time off from work. Rather, the letter merely

[57] Tr. at 31:22-32:13.

[58] Tr. at 419:12-23, 423:2-21.

[59] Tr. at 389:10-13; CX-7 (10/2/2017 Staffer-1 Doctor's Letter).

[60] Tr. at 389:6-13.

[61] Tr. at 389:6-13.

[62] Tr. at 445:4-18.

[63] Tr. at 389:6-13, 445:4-18; CX-7 (10/2/2017 Staffer-1 Doctor's Letter).

acknowledged that Staffer-1 would be out of work for two weeks "to f[ollow] u[p] on medical concerns." Staffer-1 explained that even though she did not need to be out on medical leave, she asked her doctor to provide this letter because she felt that Council Member King would not allow her to return to work unless she obtained the doctor's letter and took some time off.[64]

19. Staffer-1 testified that on that same day, on or about October 2, 2017,[65] she submitted the doctor's letter to Council Member King's district office and also faxed a copy of the letter to Administrative Services.[66] Staffer-1 then went home to begin her two week leave. [67]

20. Staffer-1 testified that on that same day, on or about October 2, 2017 at approximately shortly after 10:00 p.m., Council Member King sent two text messages to Staffer-1 directing her in the first text to return her Council cellphone and then in the second text to provide the password to her Council email account,[68] as corroborated by those text messages admitted into evidence as CX-9. Staffer-1 complied with such directives by the next day.[69] The Committee notes that in these texts, Council Member King expressed no concern for Staffer-1's health and did not reference the leave period or her return to work.

21. Ms. Francis testified that Council staff who go out on medical leave (as opposed to personal leave) continue to receive medical benefits but are not paid.[70] Records introduced during the Hearing (CX-4), which were explained by Ms. Francis during her testimony, showed that Staffer-1 received her last Council paycheck on October 6, 2017,[71] four days after she went on medical leave. Records introduced during the Hearing (CX-5), which were explained by Ms. Francis during her testimony, demonstrate that on or about September 27, 2017 (the same day leave without pay paperwork signed by Council Member King and with the initials "AK" was submitted by Council Member King for Staffer-1), Council Member King authorized a one-time payment to Staffer-1 equal to two weeks of her salary. Staffer-1 testified that she had no knowledge of such payment and believed that during her two week leave period she was receiving her regular salary.[72] Ms. Francis testified that one-time payments are not supposed to be used as

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[64] Tr. at 389:14-16.

[65] Tr. at 390:25-391:4.

[66] Tr. at 390:17-24.

[67] Tr. at 391:5-8.

[68] Tr. at 391:18-392:4, 394:3-395:10; CX-9 (10/2/2017 Staffer-1 Screenshot of Text Messages from Council Member King).

[69] Tr. at 392:5-16, 395:11-15.

[70] Tr. at 473:2-8.

[71] Tr. at 475:20-25.

[72] Tr. at 403:2-5.

substitutes for salary but rather as additional compensation to Council staff at the Council Member's discretion.[73]

(d) Staffer-1's Attempts to Return to Work and Council Member King's Intentional Refusal to Allow Staffer-1 to Return to Work

22. Staffer-1 testified that on or about October 16, 2017,[74] approximately two weeks after she submitted the doctor's letter dated October 2, 2017,[75] she obtained a second doctor's letter stating that she should "return to work full duty effective immediately," (CX-8).[76] Staffer-1 submitted the October 16, 2017 doctor's letter (CX-8) to Council Member King's district office that same day and also delivered a copy to Administrative Services at 250 Broadway at which time she asked when she could return to work and was told to talk with Council Member King.[77]

23. Staffer-1 testified that she heard nothing from Council Member King after submitting her doctor's letter to return to work. Thereafter, Staffer-1 repeatedly attempted to contact Council Member King to discuss her return from medical leave, but Council Member King failed to respond to Staffer-1's outreach and declined to engage substantively with Staffer-1 regarding her return from medical leave, including through the following conduct:

a. Throughout the remainder of October 2017, Staffer-1 repeatedly called and texted Council Member King in an attempt to discuss her return from medical leave, but Council Member King did not respond.[78] Staffer-1's testimony was corroborated by the documentary evidence of Staffer-1's unanswered texts to Council Member King that were introduced into evidence as CX-11.

b. At one point, Staffer-1 even reached out to Council Member King's wife in the hope that she might be able to help facilitate a conversation between Staffer-1 and Council Member King about her return to work, but Council Member King still did not contact Staffer-1 and no meeting or conversation took place between Staffer-1 and Council Member King.[79]

c. Staffer-1's testimony regarding her attempts to contact Council Member King regarding her return to work and Council Member King's failure to respond to those attempts was further corroborated by Ms. Francis, who testified that on or about November 15, 2017, Administrative Services emailed Council Member King to inform him that Staffer-1 had called

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[73] Tr. at 473:9-14.

[74] CX-8 (10/16/2017 Staffer-1 Doctor's Letter).

[75] Tr. at 392:17-21.

[76] Tr. at 392:17-21; CX-8 (10/16/2017 Staffer-1 Doctor's Letter).

[77] Tr. at 392:17-393:3, 396:11-16; 396:23-24.

[78] Tr. at 396:19-397:9; 397:25-400:2; CX-11 (Screenshot of Staffer-1 Text Messages to Council Member King).

[79] Tr. at 400:16-17.

multiple times to inquire about when she could return to work.[80] That email, in which Council Member King was directed to reach out to Staffer-1 to discuss her employment status and return from medical leave was admitted into evidence as CX-14. It was undisputed that Council Member King never reached out to Staffer-1 as directed by Administrative Services.

d. On or about November 22, 2017, almost two months after Staffer-1 last heard from Council Member King on the day she went on medical leave on October 2, 2017 when he requested the return of her cellphone and the password to her Council email, Council Member King called Staffer-1 and offered Staffer-1 a turkey for Thanksgiving. Staffer-1 declined.[81] Council Member King did not discuss Staffer-1's employment during this conversation and claimed that he would speak with Staffer-1 about Staffer-1's employment status after the winter holidays.[82] Staffer-1 testified that she felt insulted by Council Member King's November 22, 2017 phone call—Staffer-1 had taken medical leave at Council Member King's direction and was earning no income while on medical leave (except for the first two weeks when she believed she still was on salary but in fact had received an amount equivalent to two weeks of her salary as a one-time payment), and yet rather than respond to Staffer-1's repeated requests to return to work, Council Member King had ignored those requests and instead merely offered Staffer-1 a turkey.[83] Staffer-1 testified that she felt as though Council Member King was "trying to give a dog a bone."[84]

e. On or about December 12, 2017, Council Member King called Staffer-1 and asked her to meet him at a tree lighting event to discuss employment opportunities for Staffer-1 and Staffer-1 attended the event per Council Member King's request.[85] At the event, Council Member King merely said "hi" to Staffer-1 and again failed to engage with her regarding her employment status.[86]

24. Staffer-1 testified that she was out of work on medical leave for a total of three and a half months, three months of which she received no salary.[87]

25. The Committee was unpersuaded by Respondent's attempt to excuse or explain away Council Member King's failure to respond to Staffer-1's requests to discuss her return from medical leave based on the death of Council Member King's father in October 2017.[88] The Committee notes that Council Member King directed Staffer-1 to take a 30-day medical leave on September 29, 2017, as described in Paragraphs 13-14 above, which was prior to his father's death, and that while Council Member King's loss of his father understandably may have adversely

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[80] Tr. at 476:9-24; CX-14 (11/15/2017 Email to Council Member King).

[81] Tr. at 400:18-401:4.

[82] Tr. at 400:23-401:6.

[83] Tr. at 401:7-19.

[84] Tr. at 401:18-19.

[85] Tr. at 401:20-402:22, 441:25-442:8.

[86] Tr. at 401:20-402:22, 441:25-442:8.

[87] Tr. at 402:23-25, 403:2-5.

[88] Tr. at 431:15-433:19.

affected his attention to certain work matters, it does not excuse or justify Council Member King's complete and longstanding failure to respond to Staffer-1's requests to return from medical leave throughout October and into November 2017 as well as failure to respond or follow Administrative Services directive to do so in mid November 2017. The Committee notes that Council Member King did not challenge in any way Council Member King's failure to respond to Staffer-1's repeated texts and attempts to contact him through his wife in order to return to work as well as Administrative Services' directive to him in November 2017 to talk with Staffer-1 about her repeated requests to return to work. Thus it is undisputed that Staffer-1 repeatedly attempted to return to work and Council Member King failed to respond thereby causing her to remain on leave indefinitely without pay.

26. Respondent argued through cross-examination of Staffer-1 and in opening and closing statements that Council Member King had a legitimate reason for placing Staffer-1 on medical leave, failing to allow Staffer-1 to return to work, and failing to acknowledge or respond to her repeated requests to do so. Specifically, Respondent argued that he was trying to protect Staffer-1's health and the Council by requiring her to take medical leave and then was distracted by his father's death so somehow failed to respond to her requests to return to work. As rebuttal to this argument and as is permitted by the Disciplinary Procedures, the Special Counsel directed the Committee to the 2019 Report at pages 16 through 19 and 32. The Committee recognizes as proper rebuttal evidence that, as detailed in those pages of the 2019 Report, Council Member King has in the past acted with an impermissible animus by placing certain King Staff Members on indefinite and unwarranted leave. While the Committee does not consider findings from the 2019 Matter as evidence that Council Member King acted similarly in connection with Charge One, pursuant to the Disciplinary Procedures, the Committee can and does consider those findings to be evidence of Council Member King's *modus operandi* whereby Council Member King has repeatedly placed King Staff Members on indefinite and unwarranted leave for impermissible reasons and as evidence of absence of mistake in doing so. This evidence of Council Member King's *modus operandi* and absence of mistake further corroborates Staffer-1's testimony and discredits the suggestion or defense argued by Council Member King that his treatment of Staffer-1 was motivated by legitimate concerns regarding Staffer-1's health and wellbeing or concern for the rules and policies or liability of the Council, and that his failure to acknowledge or respond to Staffer-1's repeated requests to return from medical leave during a period of several months was somehow an innocent mistake that was excusable in light of the death of his father. The Committee notes, however, that even without considering the 2019 Report at pages 16 through 19 and 32, it would have made the same determination and fully rejected Council Member King's argument that he had a legitimate basis for the facts and circumstances surrounding Staffer-1's leave.

(e) Staffer-1's Resignation

27. Staffer-1 testified that on or about January 18, 2018, she submitted a letter of resignation (CX-12) to Council Member King's office and to Administrative Services because Staffer-1 needed a job and income and Council policies do not permit Council employees to engage

in outside employment unless approved by the Council.[89] Staffer-1 explained that in her resignation letter, she chose not to cite the fact that Council Member King had forced her to take unpaid medical leave for three and a half months as a reason for her resignation, and instead chose to describe her time at the Council using positive language, because she wanted to maintain a professional tone and leave the Council on good terms.[90]

28. The Committee found Staffer-1's testimony regarding the reasons for the content of her resignation letter to be credible and was not persuaded by Respondent's suggestion on cross-examination that if Staffer-1 had felt mistreated by Council Member King she would not have written positively about her employment at the Council in her resignation letter.[91]

iii. Conclusions on Charge One

29. As set forth above, the Committee found Staffer-1's testimony to be credible, forthcoming, and consistent. The Committee finds that in response to Staffer-1 informing Council Member King that she needed to go to the hospital due to what Council Member King understood to be excessive menstrual bleeding, Council Member King stated that Staffer-1 should put a Band-Aid on it and laughed. Staffer-1's testimony about this statement also was corroborated by the recorded conversation of her meeting with Council Member King although the Committee notes that it would have credited Staffer-1's testimony without such recording. The Committee considered and rejected as against the weight of the evidence Respondent's arguments to the contrary, or, in the alternative, that if Council Member King had made such a comment to Staffer-1, it was an isolated incident that does not violate the Policy. The Committee notes that a single egregious comment, such as the one Council Member King made to Staffer-1 when he told her to "put a Band-Aid on it" and laughed, can, in and of itself, constitute a violation of the Policy.

30. The Committee similarly was not persuaded by Respondent's suggestion that Council Member King was justified in shifting Staffer-1's job responsibilities to Staffer-8 on the basis that Staffer-1's job performance was inferior to that of Staffer-8 to whom Staffer-1's duties appear to have been reassigned as set forth above.[92] Council Member King presented no evidence to support any such claim and Staffer-1 testified that she had never received any warnings regarding her job performance. The Committee notes that Council Member King's decision to shift Staffer-1's job responsibilities to Staffer-8 is consistent with and supportive of a finding that Council Member King was motivated to take adverse employment action against Staffer-1 based upon impermissible animus against Staffer-1 on the basis of her gender, disability, and/or medical condition. The Committee finds that the timing and sequence of Council Member King's acts and conduct toward Staffer-1 are unlikely to have been a coincidence—three weeks after Staffer-1 disclosed her medical condition to Council Member King, without any apparent legitimate reason,

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[89] Tr. at 403:2-18, 404:13-19; CX-12 (1/11/2018 Staffer-1 Resignation Letter).

[90] Tr. at 404:20-405:21.

[91] Tr. at 434:10-435:19.

[92] Tr. at 436:8-438:17.

Council Member King transferred Staffer-1's responsibilities to another King Staff Member and three days later submitted paperwork to place Staffer-1 on medical leave.[93]

31. Staffer-1 credibly testified during cross-examination that she did not make any formal report or complaint to the Council, the New York City Commission on Human Rights, the New York State Division of Human Rights, or the U.S. Equal Employment Opportunity Commission regarding Council Member King's inappropriate comment toward her outside the Bronx restaurant on September 2, 2017, and Council Member King's subsequent adverse employment actions against Staffer-1 including placing Staffer-1 on an indefinite unpaid medical leave.[94] Staffer-1 credibly explained that she decided to come forward and contact the office of the Special Counsel in October 2019 because at the time of the Council's passage of the Resolution, she realized that she was not the only King Staff member who had been mistreated by Council Member King and believed it was important to share her story in the hope that by doing so she could prevent mistreatment of other Council staff in the future.[95] Staffer-1 also credibly explained that she wanted to set a good example for her child so as not to discourage public service.[96]

32. The above testimony and documents admitted as Council Exhibits at the Hearing support the conclusion by a preponderance of the evidence that Council Member King directed Staffer-1 to take an unwarranted and indefinite unpaid medical leave rather than terminating her employment outright because Council Member King hoped to evade detection of his harassment and discrimination against Staffer-1 by Human Resources, Administrative Services, the OGC, and the Council. This finding along with Council Member King's submission of paperwork for a leave not requested by Staffer-1 and use of a one-time payment to make it appear to Staffer-1 that she was on salary for a certain portion of that leave further undermines Respondent's argument that he put Staffer-1 on leave in order to somehow protect the Council as such evidence demonstrates blatant disregard of the Council's policies and rules.

33. Based on the above testimony and evidence admitted at the Hearing, the Committee finds by a preponderance of the evidence that Council Member King violated the Policy as alleged in Charge One of the Charges by engaging in harassing and discriminatory behavior toward Staffer-1 in his use of unwelcome, vulgar, derogatory, and/or hostile language in reference to Staffer-1's gender, disability, and/or medical condition—all of which are protected categories under the Policy—and by subsequently treating Staffer-1 adversely and demanding that Staffer-1 take an unnecessary and indefinite unpaid medical leave that she did not want, request, or need on the basis of Staffer-1's gender, disability, and/or medical condition and that his refusal to permit her to return to work from this leave ultimately led her to resign.

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[93] Tr. at 405:22-406:2.

[94] Tr. at 406:10-23, 411:24-413:16.

[95] Tr. at 406:24-407:11.

[96] Tr. at 407:2-11.

B. CHARGES TWO AND THREE: CONFLICTS OF INTEREST AND DISORDERLY CONDUCT

34. As fully set forth below, the evidence at the Hearing demonstrated by a preponderance of the evidence that, from in or about July 2019 through in or about August 2019, in violation of Chapter 68 of the City Charter and Council Rule 10.70, Council Member King engaged in conflicts of interest by using his public office as a Council Member to engage in, and directing Staffer-2 to help facilitate, misappropriation of public Council funds for his personal financial gain, as alleged in Charge Two of the Charges. The evidence at the Hearing also showed by a preponderance of the evidence that Council Member King violated Council Rule 10.80 by engaging in disorderly conduct by willfully engaging in, and through gross culpable conduct directing Staffer-2 to help facilitate, use of a Council one-time payment to engage in conversion of $2,000 of public Council funds, and by willfully violating Chapter 68 of the City Charter which is a law relating to a Council Member's discharge of his or her official duties and prohibiting use of office for personal gain, as alleged in Charge Three of the Charges.

i. Council Member King's Request for $2,000 of Staffer-2's $9,500 One-Time Payment

35. As shown by CX-21a-g, and as testified to by Ms. Francis, Council Members can authorize one-time payments to their staff.[97] One-time payments are paid to Council Member staff in their paychecks with all applicable payroll deductions and are made in the sole discretion of the Council Member.

36. Staffer-2 testified that in or about approximately July 2019,[98] Council Member King called Staffer-2 into his office and told Staffer-2 that Staffer-2 would receive "something extra" in Staffer-2's regular paycheck.[99] Council Member King then stated that he needed Staffer-2 to give him $2,000 of that extra payment.[100] Staffer-2 responded, "okay."[101] Council Member King did not provide any explanation for his request that Staffer-2 provide him with $2,000 of the "extra" money that Staffer-2 would be receiving in Staffer-2's paycheck.[102]

37. Staffer-2 testified that during the next Council payroll period,[103] Council Member King asked Staffer-2 if Staffer-2 had received the "extra" payment yet and Staffer-2 responded

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[97] Tr. at 458:24-459:18; CX-21a-g (Staffer-2 One-Time Payment Forms).

[98] Tr. at 331:25-332:22.

[99] Tr. at 51:4-15.

[100] Tr. at 51:18-23.

[101] Tr. at 51:24-25.

[102] Tr. at 52:2-7.

[103] Tr. at 333:17-334:23.

that Staffer-2 had not yet received it.[104] Council Member King stated that he would take care of it by speaking with Council administrative staff the next day.[105]

38. Staffer-2 testified that on or about August 7, 2019, Staffer-2 received a one-time payment via direct deposit to Staffer-2's bank account,[106] as corroborated by Staffer-2's bank records (CX-18). As testified to by Staffer-2 and corroborated by Staffer-2's Council payroll records (CX-17), this one-time payment was in the amount of $9,500, which netted approximately $5,500 to Staffer-2 after payroll taxes and deductions.[107]

39. Staffer-2 testified that this one-time payment was significantly larger than any other one-time payments Staffer-2 had received from Council Member King in the past, which generally ranged from approximately $1,500 to $2,000.[108] Staffer-2's testimony was corroborated by Staffer-2's one-time payment records (CX-21a-g), which reflect that aside from the $9,500 one-time payment in 2019, Staffer-2 in the past received one-time payments ranging from $500 to $3,000, or approximately $1,500 on average.

40. Staffer-2 testified that, as corroborated by text messages admitted at the Hearing as CX-43, on or about August 9, 2019, Staffer-2 texted Council Member King to thank him for the one-time payment of $9,500.[109]

ii. Staffer-2's Cash Withdrawal to Direct $2,000 to Council Member King

41. Staffer-2 testified that, as corroborated by bank records admitted at the Hearing as CX-18 and CX-18a, on or about August 15, 2019, Staffer-2 went to Staffer-2's bank branch in Co-Op City and withdrew $5,000 cash from Staffer-2's bank account,[110] In addition and, as corroborated by bank records admitted at the Hearing as CX-18a, on or about August 16, 2019,[111]

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[104] Tr. at 52:13-18.

[105] Tr. at 52:13-18.

[106] Tr. at 53:16-20; CX-18 (Staffer-2 Bank Records).

[107] *See* Tr. at 59:20-60:9; CX-17 (Staffer-2 Council Pay Details).

[108] Tr. at 49:24-50:13.

[109] Tr. at 265:3-9; CX-43 (Staffer-2 Text Messages with Council Member King).

[110] Tr. at 55:3-14, 250:17-23; CX-18 (Staffer-2 Bank Records); CX-18a (Staffer-2 Bank Records).

[111] Staffer-2's initial confusion about what date he withdrew the $5,000 to give to Council Member King was credibly explained by Staffer-2 and is fully set forth below.

Relatedly, the Committee finds that as a result of technical issues related to a large volume of email attachments, CX-18a inadvertently was not transmitted via an email sent on June 27, 2020 by Special Counsel to Respondent's counsel with certain additional exhibits that might be sought to be introduced at the Hearing. (Tr. at 244:25-245:5.) When seeking to introduce CX-18a at the Hearing, Respondent claimed surprise and Special Counsel stated that it had been sent on June 27, 2020 but then double-checked and realized for the first time that CX-18a had failed to transmit due perhaps to the total file size. The Committee credits the Special Counsel's representation that CX-18a apparently was omitted from the email inadvertently and as evidenced by the cover letter sent with that email that

Staffer-2 went to Staffer-2's bank branch in Co-Op City and withdrew an additional $5,000 cash from Staffer-2's bank account. Staffer-2 testified that the second $5,000 withdrawal was for the purpose of giving Council Member King the $2,000 he had previously requested.[112]

42. Staffer-2 testified that Council Member King had been in the U.S. Virgin Islands on or about the first week of August 2019,[113] and that, at Council Member King's request, late at night on or about August 15, 2019 continuing into the early morning on or about August 16, 2019., Staffer-2 drove to the airport to pick up Council Member King and Council Member King's wife and granddaughter[114] and then dropped them off at Council Member King's home.[115] Cellphone call records, text messages, and E-Z Pass records introduced at the Hearing (CX-41, 45, 46, and 47) corroborated that Staffer-2 travelled to the airport to pick up Council Member King (and his wife and granddaughter) leaving his house around 10:00 p.m. on August 15, 2019, arriving at the airport and waiting there until around 1:00 a.m. on August 16, 2019, and returning to the Bronx thereafter.

43. Staffer-2 testified that later in the morning of that same day, on or about August 16, 2019,[116] Staffer-2 informed Council Member King by phone call and text message that Staffer-2 was going to Staffer-2's bank in Co-Op City to withdraw cash so that Staffer-2 could give Council Member King the $2,000 Council Member King had requested from the extra money Council Member King had authorized to be paid to Staffer-2 in the form of a one-time payment from the Council.[117] Staffer-2's testimony was corroborated by Staffer-2's cellphone call records and text messages (CX-41 and CX-43).

44. Specifically, the evidence showed a text message dated August 16, 2019 at 11:47 a.m. from Staffer-2 to Council Member King that stated as follows: "At co-op grabbing that" (CX-

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specifically named each prospective exhibit by number, including CX18a. Respondent's counsel never informed the Special Counsel that one of the exhibits referenced in that cover letter had not been received along with the other attachments to that letter. Regardless, the Committee notes that the Special Counsel's introduction of CX-18a was proper under the Disciplinary Procedures, which allow for provision of additional evidence at the Hearing and that Respondent was not prejudiced in any way, especially because cross-examination of Staffer-2 on CX-18a did not commence until more than eight days later thereby providing Respondent's counsel with more than sufficient time to review the document, which the Committee also notes was only one page in length and included redactions. As to those redactions, Respondent's objection to CX-18a (as well as CX-18) based on the claim that he was entitled to unredacted copies of those exhibits was properly overruled. (Tr. at 248:7-18, 258:8-16, 270:10-22, 279:4-280:15, 358:14-359:3, 359:13-15, 361:6-363:23.) Chair Matteo correctly found that Staffer-2 had provided those documents to the Special Counsel redacted to omit entirely personal information not relevant to the Hearing. (Tr. at 258:8-16, 359:4-12. 361:3-5.)

[112] Tr. at 262:21-263:9.

[113] Tr. at 61:5-11.

[114] Tr. at 256:3-25, 261:20-23.

[115] Tr. at 260:5-15.

[116] Tr. at 261:24-262:7.

[117] Tr. at 262:17-263:9, 264:13-265:2.

43). Staffer-2 testified that in this text message, Staffer-2 was communicating to Council Member King that Staffer-2 was at Staffer-2's bank in Co-Op City withdrawing cash in order to give Council Member King the cash he had requested.[118]

45. Indeed, cellphone records indicate that in the 65 minutes surrounding the text message from Staffer-2 to Council Member King that he was "[a]t co-op grabbing that," Council Member King called Staffer-2 four times (CX-41).

46. The Committee rejects as against the weight of the evidence Respondent's suggestion during cross-examination of Staffer-2 that there could be an alternative explanation of the text message "[a]t co-op grabbing that." On cross-examination, Respondent suggested that Staffer-2 might have gone to Council Member King's Co-Op City office on August 16, 2019 for work-related reasons[119] or to retrieve evidence of a former King Staff Member's potential violation of Council policies.[120] Staffer-2 credibly testified that although Staffer-2 occasionally did visit the Co-Op City office for work-related reasons, on August 16, 2019, Staffer-2 was in Co-Op City to withdraw money from Staffer-2's bank, not to go to Council Member King's Co-Op City office.[121] Staffer-2's credible testimony was corroborated by Staffer-2's bank statement (CX-18a), which confirms that Staffer-2 withdrew $5,000 cash from Staffer-2's bank in Co-Op City on August 16, 2019.

47. The Committee finds Staffer-2's testimony credible and was not persuaded by Respondent's cross-examination regarding the fact that the text messages did not contain explicit references to the $2,000 changing hands.[122] To the contrary, it is a reasonable inference to draw that if an individual was directed by their boss to carry out a task that the individual perceived might be impermissible or not entirely legitimate, that individual understandably might communicate about such a task using vague language and avoid explicitly spelling that task out in writing.

iii. Staffer-2's Delivery of $2,000 to Council Member King

48. Staffer-2 testified that later that same day, on or about August 16, 2019, Staffer-2 went to Council Member King's house and gave him the $2,000 he had requested in cash.[123] At Council Member King's house, Staffer-2 first spoke with Council Member King about work-related matters.[124] At the end of the conversation, Staffer-2 placed $2,000 in cash on a piece of

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[118] Tr. at 264:18-265:2; CX-43 (Staffer-2 Text Messages with Council Member King).

[119] Tr. at 297:12-23.

[120] Tr. at 299:4-303:17; CX-44 (Staffer-2 Text Messages with Council Member King).

[121] Tr. at 297:12-23.

[122] Tr. at 308:6-13.

[123] Tr. at 265:10-19.

[124] Tr. at 54:3-9.

furniture[125] and said, in sum and substance, "[d]on't forget, here's the money."[126] Council Member King responded, in sum and substance, "[o]h, okay."[127] Staffer-2 then left Council Member King's house and went to Council Member King's district office.[128]

49. Staffer-2 testified that after dropping off the $2,000 at Council Member King's house, Staffer-2 had no further conversations with Council Member King about the $2,000.[129] Staffer-2 testified that if Staffer-2 had not received the $9,500 one-time payment from Council Member King, Staffer-2 would not have given $2,000 to Council Member King because Staffer-2 would not have had any extra money to give to Council Member King.[130]

iv. Conclusions on Charges Two and Three

50. As noted above, Staffer-2 initially mistakenly testified that Staffer-2 had given the $2,000 in cash to Council Member King at his house on August 15, 2019.[131] Staffer-2 returned to the Hearing to correct Staffer-2's initial testimony regarding the date on which Staffer-2 gave the $2,000 to Council Member King and explained the reasons for Staffer-2's confusion.[132] The Committee found Staffer-2's explanation for Staffer-2's confusion persuasive as set forth below:

a. Staffer-2 testified that after being cross-examined regarding the date on which Staffer-2 gave the $2,000 cash to Council Member King and being asked whether Council Member King had been in the U.S. Virgin Islands on August 15, 2019,[133] Staffer-2 consulted Staffer-2's personal records, which refreshed Staffer-2's memory that Staffer-2 had in fact provided the $2,000 cash to Council Member King on August 16, 2019.[134]

b. Staffer-2 credibly explained that before testifying at the Hearing the first time, Staffer-2 had reviewed Staffer-2's bank records on Staffer-2's cellphone, that when looking at the bank records on the small cellphone screen Staffer-2 was only able to see the first withdrawal of $5,000 on August 15, 2019, and that because Staffer-2 recalled Staffer-2 had given the $2,000

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[125] Tr. at 345:4-13. The Committee found Respondent's cross-examination of Staffer-2 as to the type of furniture on which Staffer-2 placed the $2,000 cash to be unpersuasive. Although Staffer-2 was unable to identify the specific type of furniture, Staffer-2 credibly testified that Staffer-2 placed the $2,000 cash on a piece of furniture that was described as either a cabinet, a desk, or a table located to the left of Council Member King's dining room table.

[126] Tr. at 54:3-9

[127] Tr. at 54:12-15.

[128] Tr. at 54:20-22.

[129] Tr. at 54:23-55:2.

[130] Tr. at 60:17-22.

[131] Tr. at 55:3-8, 110:5-112:24.

[132] Tr. at 238:11-239:3.

[133] Tr. at 112:10-22.

[134] Tr. at 238:16-239:3.

to Council Member King after withdrawing $5,000 from the bank, Staffer-2 had inferred that Staffer-2 had done so on the same day as the $5,000 withdrawal on August 15, 2019.[135]

c. Staffer-2 further credibly testified that after testifying at the Hearing on June 16, 2020 and being asked questions about whether Council Member King was out of the country on August 15, 2019, Staffer-2 reviewed Staffer-2's bank records again, this time on Staffer-2's computer screen. By doing so, Staffer-2 saw that Staffer-2 had made a second withdrawal of $5,000 the next day, on or about August 16, 2019.[136]

d. Staffer-2 testified that Staffer-2 also reviewed Staffer-2's cellphone call log and text messages from August 15 and 16, 2019 (CX-41, CX-45, and CX-46) all of which further refreshed Staffer-2's recollection that Staffer-2 had given the $2,000 cash to Council Member King on August 16, 2019 as those records showed that Staffer-2 had travelled to the airport to pick up Council Member King and his family beginning before midnight on August 15, 2019 through early in the morning on August 16, 2019.[137]

e. In sum, the August 2019 bank statement as viewed on Staffer-2's computer screen, which was admitted into evidence (CX-18a), along with Staffer-2's personal cellphone texts, cellphone call logs, and EZ-pass records (CX-41, CX-45, and CX-46, respectively) refreshed Staffer-2's recollection that Staffer-2 had given the $2,000 cash to Council Member King on the day of the second $5,000 withdrawal on August 16, 2019.[138]

51. Despite the initial confusion, the Committee found Staffer-2's testimony to be credible for at least the following reasons:

a. Staffer-2's testimony regarding the sequence of events on August 15 and 16, 2019 was corroborated by a number of documents, including Staffer-2's Council Employee Self-Service payroll records, Staffer-2's bank records, Council one-time payment records, Staffer-2's cellphone call log, Staffer-2's text messages, and Staffer-2's vehicle toll records.[139]

b. The Committee was not persuaded by Respondent's attempts to attack Staffer-2's credibility on the basis of the circumstances surrounding Staffer-2's suspension in mid 2019[140] and found such arguments neither relevant to nor probative of Staffer-2's truthfulness or credibility.

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[135] Tr. at 239:24-240:23, 250:24-251:9.

[136] Tr. at 239:9-23; CX-18a (Staffer-2 Bank Statement).

[137] Tr. at 239:4-8.

[138] Tr. at 239:13-23; CX-18a (Staffer-2 Bank Statement).

[139] CX-17, CX-18, CX-18a, CX-19, CX-20, CX-21a-g, CX-41, CX-43, CX-44, CX-45, CX-46, and CX-47.

[140] *See* Tr. at 48:16-22, 94:3-12, 129:4-130:4.

c. The Committee also was unpersuaded by Respondent's attempts to discredit Staffer-2's testimony on the basis that Staffer-2 did not discuss Council Member King's request for $2,000 with anyone other than Council Member King and Staffer-2's spouse and that Staffer-2 did not initially report the issue to the Council.[141] The Committee found Staffer-2's testimony credible and found it reasonable that Staffer-2 would speak only with Staffer-2's spouse about a sensitive potentially impermissible matter. The Committee found it understandable that Staffer-2 might not feel comfortable reporting Council Member King's request for $2,000 to the Council or other authorities at the time of the transaction, particularly because Staffer-2 worked for Council Member King, had worked for Council Member King for his entire time in office as well as on his campaign, and had a personal relationship with Council Member King and his family.

d. The Committee also was unpersuaded by Respondent's attempt to suggest that Staffer-2 somehow was motivated to be untruthful about the $2,000 cash payment on the basis that Staffer-2's personal relationship with Council Member King became strained in or about November 2019 and/or that Staffer-2 was unhappy with Council Member King's decrease in Staffer-2's role and responsibilities during the remote work period related to COVID-19.[142] While Staffer-2 may have been dissatisfied with Council Member King's treatment of Staffer-2, the Committee nonetheless finds Staffer-2's testimony to be credible for all the reasons set forth in this Paragraph 51, as well as because key portions of Staffer-2's testimony were corroborated by documentary evidence.

e. In fact, testimony from Ms. Pate demonstrated that Staffer-2 was understandably extremely reluctant to come forward to the Special Counsel regarding the $9,500 one-time payment and the $2,000 Council Member King had requested from it. Ms. Pate testified that when Staffer-2 was asked to speak with the Special Counsel in connection with the 2020 Matter, Staffer-2 expressed to Ms. Pate that Staffer-2 was not comfortable speaking with the Special Counsel because Staffer-2 feared speaking out against Council Member King and feared that by doing so Staffer-2 might lose Staffer-2's job and livelihood and would be unable to take care of Staffer-2's family.[143]

f. In addition, none of the evidence presented at the Hearing suggested that Staffer-2 had anything to gain by coming forward to the Special Counsel. To the contrary, Staffer-2's testimony demonstrated that Staffer-2 had a great deal to lose by coming forward—by doing so, Staffer-2 risked Staffer-2's job, Staffer-2's relationship with Council Member King, Staffer-2's livelihood, and the financial well-being of Staffer-2's family.[144]

g. Ms. Pate further testified that in or about February 2020, Staffer-2 told Ms. Pate that Staffer-2 had spoken with the Special Counsel and Staffer-2 had given direct answers to the questions asked by the Special Counsel, but that Staffer-2 felt the Special Counsel had not

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[141] *See* Tr. at 101:15-105:13, 105:14-106:6, 107:8-108:9.

[142] *See* Tr. at 89:14-91:19, 351:16-354:21, 355:8-356:22.

[143] Tr. at 560:17-561:12.

[144] Tr. at 560:17-561:12.

asked him certain questions that should have been asked.[145] Ms. Pate asked what questions the Special Counsel should have asked him but did not and Staffer-2 responded that Staffer-2 had received a significant one-time payment and Council Member King had asked for $2,000 from that one-time payment.[146] This testimony by Ms. Pate further corroborates Staffer-2's testimony.[147] Moreover, Ms. Pate's testimony further supports the conclusion that Staffer-2 was reluctant to participate in the investigation of the 2020 Matter or the Hearing. The Committee further notes that it found Staffer-2's demeanor during Staffer-2's testimony to support an inference that Staffer-2 was reluctant to testify at the Hearing and recognizes that Staffer-2 appeared pursuant to a Subpoena.

h. The Committee further notes that Staffer-2 understandably became upset and defensive when cross-examined about personal and intimate details regarding Staffer-2's children, family life, and financial situation.[148] Although Staffer-2 was defensive with respect to those sensitive personal subjects, Staffer-2 still provided sufficient responses to cross-examination on those subjects, which yielded no relevant evidence, and largely testified in a forthcoming and credible manner. The Committee finds that any defensiveness on behalf of Staffer-2 did not undermine the credible testimony and evidence about Council Member King's direction to Staffer-2 to give Staffer-2 $2,000 from the one-time payment Council Member King awarded to Staffer-2 and Staffer-2's compliance with such directive.

52. In sum, the testimony given by Staffer-2 was consistent in relevant parts, although Staffer-2 understandably had trouble recalling certain details, such as whether Staffer-2 placed the $2,000 cash on a cabinet or a table in Council Member King's home, and initially before full review of Staffer-2's own records whether Staffer-2 gave that $2,000 cash to Council Member King on August 15 or 16, 2019. The Committee found that these minor inconsistencies were largely immaterial and Staffer-2 otherwise provided largely consistent and credible testimony regarding the material facts at issue.

53. The Committee similarly was not persuaded by Respondent's suggestion on cross-examination that Council Member King gave Staffer-2 an unusually large one-time payment because Staffer-2 had significant expenses such as children, a vehicle, and rent, and had received less pay while suspended from March to June 2019, such that Council Member King wanted to

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[145] Tr. at 559:7-560:10.

[146] Tr. at 560:10-16.

[147] The Committee notes that Staffer-2 had a slightly different recollection of this meeting with Ms. Pate. Staffer-2 testified that Ms. Pate initiated a meeting with Staffer-2 and asked Staffer-2 about a one-time payment and whether Staffer-2 gave Council Member King $2,000, and that in response, Staffer-2 told Ms. Pate what had happened with respect to the one-time payment and the $2,000.[147] The Committee finds that despite this inconsistency, overall the testimony given by Staffer-2 and Ms. Pate is consistent with respect to the material facts regarding the one-time payment given to Staffer-2 by Council Member King and the $2,000 requested by Council Member King. In both accounts, Ms. Pate initiated the conversation with Staffer-2.

[148] *See* Tr. at 91:20-93:6, 311:8-329:11.

give Staffer-2 a one-time payment to help Staffer-2 with those financial issues.[149] The Committee notes that Staffer-2 had such expenses in years prior, the expenses were not out of the ordinary, and that Staffer-2 testified that Staffer-2 received less pay while on suspension, but Staffer-2 did not know whether that reduction in Staffer-2's paychecks while on suspension was because of the suspension.[150] Ms. Francis testified, and Council records (CX-54 and CX-55) corroborated, that Staffer-2 did not receive less pay because of the suspension. Rather, Staffer-2 received full Council pay while suspended but Staffer-2 received less money for two pay periods during this suspension because the suspension coincided with an unrelated garnishment of wages taken by the City of New York directly from Staffer-2's payroll.[151]

54. Based on the above testimony and evidence admitted at the Hearing, the Committee finds by a preponderance of the evidence that Council Member King violated Chapter 68 of the City Charter and Council Rule 10.70 by engaging in conflicts of interest by using his public office as a Council Member to engage in, and directing Staffer-2 to help facilitate, his use of a Council one-time payment to misappropriate $2,000 of public Council funds for his personal financial gain, as alleged in Charge Two of the Charges.

55. Based on the above testimony and evidence admitted at the Hearing, the Committee finds by a preponderance of the evidence that Council Member King violated Council Rule 10.80 by engaging in disorderly conduct by willfully engaging in, and through gross culpable conduct directing Staffer-2 to help facilitate, use of a Council one-time payment to engage in conversion of $2,000 of public Council funds, and by willfully violating Chapter 68 of the City Charter which is a law relating to a Council Member's discharge of his or her official duties, as alleged in Charge Three of the Charges.

C. CHARGE FOUR: VIOLATIONS OF THE RESOLUTION AND DISORDERLY CONDUCT

56. As fully set forth below, the evidence at the Hearing showed by a preponderance of the evidence that, from in or about mid December 2019 through the present, in violation of the Resolution and Council Rule 10.80, Council Member King engaged in numerous willful violations of the binding terms and conditions of the Resolution, and engaged in disorderly conduct by violating the Resolution, as alleged in Charge Four of the Charges.

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[149] Tr. at 91:20-93:6, 311:8-312:14, 314:7-323:2, 325:3-329:11, 330:18-331:8, 331:9-15, 467:5-24. *See also* Tr. at 37:17-21 (Respondent's opening statement).

[150] Tr. at 127:9-23.

[151] Tr. at 487:5-488:9; CX-53 (Staffer-2 Payment Summary); CX-54 (Staffer-2 Garnishment Summary).

i. The Monitor's Role and Responsibilities Under the Resolution

57. Pursuant to Paragraph 3 of the Resolution (CX-32), Council Member King's office became subject to a Monitor.[152]

58. The Resolution grants the Monitor a number of powers and responsibilities, which include the authority to:

a. Ensure that King Staff are appropriately managed in accordance with Council Rules and policies, pursuant to Paragraph 3 of the Resolution;[153]

b. Review and approve all hiring, firing, and other employment status decisions for King Staff, pursuant to Paragraphs 3 and 4 of the Resolution;[154]

c. Attend all King Staff meetings, pursuant to Paragraphs 3 and 4 of the Resolution;[155] and

d. Hold meetings regularly with King Staff to ensure that Council Member King's office is being operated in accordance with Council policies, pursuant to Paragraphs 3 and 4 of the Resolution.[156]

59. Pursuant to Paragraph 10 of the Resolution, the Resolution also requires full cooperation by Council Member King with the work and directives of the Monitor.[157]

60. Mr. Davis served as the interim monitor during the time that Council Member King was out of the office on his 30-day suspension pursuant to the Resolution.[158] Ms. Pate, Staffer-2, and Staffer-3 testified that thereafter, beginning in or about mid December 2019 and continuing through the present, Ms. Pate was the Monitor and worked out of the 940 East Gun Hill Road office, which functioned as Council Member King's main district office where most King Staff worked.[159] Staffer-2 and Staffer-3 testified that in general Ms. Pate was present in Council Member King's office on a daily basis from the opening of the office until the closing of the office, from approximately 9:00 a.m. to 5:00 p.m.[160]

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[152] CX-32 (the Resolution).

[153] Tr. at 604:7-20; CX-32 (the Resolution).

[154] Tr. at 512:6-16; CX-32 (the Resolution).

[155] Tr. at 512:6-16; CX-32 (the Resolution).

[156] Tr. at 512:6-16; CX-32 (the Resolution).

[157] Tr. at 605:23-606:14; CX-32 (the Resolution).

[158] Tr. at 510:22-511:9.

[159] Tr. at 64:18-22, 145:16-18, 510:19-21, 511:16-25, 512:17-20; CX-32 (the Resolution).

[160] Tr. at 64:23-65:8, 148:4-13.

61. The Resolution gave the Monitor broad powers to engage in general oversight of Council Member King's office in order to ensure that King Staff was "appropriately managed" (the Resolution, CX-32), in accordance with the Council's Rules and policies. In order to effectuate the terms of the Resolution, Council Member King specifically was required to be "full[y] cooperat[ive] with the work and directives of the Monitor." (Paragraphs 3 and 10 of the Resolution, CX-32) The Committee rejects Respondent's attempts to limit Council Member King's responsibilities *vis a vis* the Monitor to permitting the Monitor to engage in the specific conduct set forth in Paragraphs 4(a) through 4(d) of the Resolution. Those paragraphs are more accurately read not as limitations but as specific prohibitions on Council Member King's ability to restrict the Monitor from engaging in the functions contained in the Resolution. In addition, the Committee finds that while the Monitor was not "required" to engage in the delineated conduct set forth in Paragraphs 4(a) through 4(d) of the Resolution, Council Member King was prohibited from interfering with the Monitor's ability to exercise these functions, and that Council Member King was required to provide his "full cooperation" to the Monitor.[161]

62. Upon becoming the Monitor and Council Member King's return to work following his suspension, Ms. Pate testified that Mr. Davis arranged for a meeting to introduce Ms. Pate to Council Member King and transition her to the Monitor role.[162] During that transition meeting, Ms. Pate explained to Council Member King her role as Monitor, including her duties under the Resolution.[163] Ms. Pate also explained to Council Member King during that meeting that her role as Monitor was to ensure that employment-related decisions with respect to King Staff complied with the Resolution.[164] Ms. Pate informed Council Member King that pursuant to the Resolution, as Monitor, she needed to attend and be notified in advance of all King Staff meetings, approve any offsite staff meetings, have full access to King Staff outside of Council Member King's presence, and be informed of all employment-related decisions.[165] Council Member King responded by acknowledging Ms. Pate's statements and stating that staff meetings would be held every Monday at 8:00 a.m.[166] Council Member King did not engage in any substantive discussion with Ms. Pate or ask any questions about her duties or responsibilities.[167]

63. Ms. Pate testified that the first King Staff meeting she attended took place in or about late December 2019 and King Staff and Council Member King were present.[168] During this staff meeting, Ms. Pate introduced herself as the Monitor and explained the Resolution and her

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[161] CX-32 (the Resolution).

[162] Tr. at 514:13-21.

[163] Tr. at 514:13-24.

[164] Tr. at 514:25-515:14.

[165] Tr. at 514:25-515:14, 516:17-517:5, 523:3-13.

[166] Tr. at 515:12-14, 517:3-5.

[167] Tr. at 515:12-14.

[168] Tr. at 519:15-22.

role with respect to it with a goal of ensuring that all King Staff felt comfortable working with and speaking to her.[169]

64. Ms. Pate testified that the next King Staff meeting she attended took place in or about early January 2020 and Council Member King was present. During that staff meeting, certain King Staff Members expressed concerns related to their lack of compensation for after hours and weekend work.[170] In response, Council Member King stood up and shouted and stated to the King Staff, in sum and substance, that if any King Staff Members were not happy with their pay or the way in which they were being treated, Council Member King and Ms. Pate would go into his office and speak about terminating the employment of those King Staff Members.[171] Ms. Pate testified that Council Member King's statements made her uncomfortable because she felt that Council Member King was using her to threaten King Staff.[172] After Council Member King finished speaking, Ms. Pate explained to the King Staff that Council Member King had mischaracterized her role as Monitor, that her role as Monitor was not to help Council Member King terminate the employment of King Staff who voiced concerns about their treatment in his office, and that she was there to listen to King Staff Members' concerns and liaise with Council Member King regarding any such concerns.[173]

65. Ms. Pate testified that when she first became the Monitor, she had separate individual meetings with Staffer-2 and Staffer-3 who served in roles that included management responsibilities to explain her role as Monitor and her duties pursuant to the Resolution and thereafter worked to build a relationship with them.[174] Ms. Pate testified that initially, Staffer-2 seemed skeptical that the Resolution would be followed or that there would be any change in the way Council Member King ran his office.[175] Ms. Pate testified that over time, she built a cooperative relationship with Staffer-3, that Staffer-3 seemed to appreciate Ms. Pate's presence in the office, and that Staffer-3 corresponded with Ms. Pate regularly on an almost-daily basis in order to keep Ms. Pate apprised of things that happened in Council Member King's office outside Ms. Pate's presence.[176]

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[169] Tr. at 519:7-14.

[170] Tr. at 519:23-520:9.

[171] Tr. at 520:10-16.

[172] Tr. at 520:17-19.

[173] Tr. at 520:19-521:2.

[174] Tr. at 517:6-22, 521:8-17.

[175] Tr. at 517:17-518:2.

[176] Tr. at 521:18-522:6.

ii. Council Member King's Attempts to Discourage and Prevent Staff From Cooperating with the Monitor and/or the Investigation of the 2020 Matter

66. Staffer-2 testified that on at least three or four occasions in or about December 2019, Council Member King stated that he was "taking back his office."[177] Staffer-3 corroborated that testimony and stated that in or about January 2020, Council Member King held a staff meeting during which he stated that he had returned from suspension and was ready to "take back his office."[178] Based on such testimony, the Committee finds that Council Member King returned from suspension without any intent of cooperating with the Monitor as required by the Resolution but rather with the intent to frustrate the work of the Monitor and ignore the requirements of the Resolution regarding the Monitor's role in his office.

67. Ms. Pate and Staffer-3 testified that approximately a week after the transition meeting between Mr. Davis, Ms. Pate, and Council Member King, Ms. Pate and Staffer-3 met privately in Council Member King's office,[179] which is located in the rear left portion of Council Member King's district office and is enclosed by partial walls that do not extend all the way up to the ceiling,[180] and is the only private space in Council Member King's district office.[181] Ms. Pate testified that Council Member King's office had been unoccupied at the time Ms. Pate and Staffer-3 entered and that they needed to use it to discuss a private personnel matter. [182] Staffer-3 testified that during their meeting, Council Member King opened the office door aggressively and "stormed in" to the office.[183] Ms. Pate testified that upon entering his office, Council Member King appeared "shocked and surprised" to see Ms. Pate and Staffer-3 in his office.[184] Despite having participated in a recent prior meeting with Ms. Pate and Mr. Davis about Ms. Pate's role and responsibilities as Monitor, Staffer-3 testified that Council Member King asked, in reference to Ms. Pate, "who is this?"[185] Ms. Pate testified that she perceived that Council Member King did not recognize her, so Ms. Pate reintroduced herself and reiterated the parameters of the Resolution and her role as Monitor.[186] The Committee finds that Council Member King's failure to recognize the Monitor after having a substantive meeting with her about her role and responsibilities as Monitor is

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[177] Tr. at 72:17-18, 73:2-5, 75:7-10.

[178] Tr. at 147:6-13.

[179] Tr. at 149:22-150:2, 515:15-24.

[180] Tr. at 513:11-15.

[181] Tr. at 199:11-200:2.

[182] Tr. at 515:15-516:3.

[183] Tr. at 148:20-24.

[184] Tr. at 515:15-516:3.

[185] Tr. at 150:3-7.

[186] Tr. at 516:3-7.

evidence of his lack of interest in adhering to the requirements of the Resolution with respect to the Monitor.

68. Ms. Pate testified that shortly after the meeting during which Council Member King found Ms. Pate and Staffer-3 in his office, Ms. Pate observed that a message was placed on a dry-erase board on the door to Council Member King's office instructing King Staff not to enter Council Member King's office without his permission.[187]

69. The Committee finds that Ms. Pate's credible testimony regarding Council Member King's reaction to her private meeting with Staffer-3 in Council Member King's office, as well as the message placed outside Council Member King's office shortly thereafter restricting King Staff access to his office, support an inference that Council Member King disapproved of King Staff meeting privately with the Monitor and took steps to intimidate and deter King Staff from meeting or cooperating with the Monitor, as well as conveyed the message that King Staff should not meet with the Monitor or otherwise cooperate with the Monitor.

70. Staffer-3 testified that some time in or about January 2020, Council Member King called Staffer-3 and expressed dissatisfaction that Staffer-3, according to him, tended to keep Staffer-3's head down and continue typing when Council Member King walked into the office because it appeared to him as though Staffer-3 was showing the Monitor that Staffer-3 was on "the Corey team" and not "the King team."[188] Council Member King then asked Staffer-3, in sum and substance, "what team are you on, the King team or the Corey team?"[189] Staffer-3 understood that Council Member King was referring to Corey Johnson, the Speaker of the Council, and did not answer Council Member King's question because Staffer-3 felt that Council Member King's question was unprofessional and inappropriate.[190]

71. Staffer-3 further testified that on one occasion, Council Member King called Staffer-3 into his office, passed a phone to Staffer-3, and asked Staffer-3 to speak to the person on the phone.[191] Staffer-3 testified that the person on the phone identified herself as Ms. Hayes, Council Member King's attorney, and said she wanted to ask Staffer-3 questions.[192] Staffer-3 told Ms. Hayes she did not have the right to question Staffer-3, handed the phone back to Council Member King, and asked Council Member King not to do that again.[193]

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[187] Tr. at 516:8-16.

[188] Tr. at 163:7-16

[189] Tr. at 163:16-17.

[190] Tr. at 163:17-24.

[191] Tr. at 165:20-166:3.

[192] Tr. at 166:4-11.

[193] Tr. at 166:4-11.

72. Similarly, Staffer-2 testified that in or about January 2020, Council Member King held a private meeting with Staffer-2 at a diner during which Council Member King stated that he had noticed a change in Staffer-2 and asked if Staffer-2 was on his team.[194]

73. Based upon credible testimony that Council Member King questioned Staffer-2 as to whether Staffer-2 was on his "team" and Staffer-3 regarding whether they were on the "King team or the Corey team," repeatedly stated that he was going to "take back his office," and made the only private office space in the district office off-limits to the Monitor despite her duty to "meet with staff outside the presence of Council Member King," the Committee concludes that Council Member King engaged in conduct to intimidate and deter King Staff from cooperating with the Monitor and conveyed the message that King Staff should not meet with the Monitor or otherwise cooperate with the Monitor. Such evidence also demonstrated to the Committee that Council Member King had no interest in abiding by the terms of the Resolution or cooperating with the Monitor as expressly required by the Resolution.

iii. Council Member King's Disfavor of Staff who Cooperated with the Monitor and/or the Investigation of the 2020 Matter

74. Ms. Pate testified that while she was working as the Monitor, she observed very little interaction between Council Member King and Staffer-3.[195] Ms. Pate testified that Council Member King often communicated with Staffer-3 through other King Staff, rather than communicating with Staffer-3 directly.[196]

75. Staffer-2 testified that beginning in or about November 2019, communication between Council Member King and Staffer-2 became much less frequent and work for which Staffer-2 normally would be responsible instead was directed by Council Member King to other King Staff.[197] Ms. Pate testified that she too observed very little interaction between Council Member King and Staffer-2, and, similar to what she observed regarding Council Member King's treatment of Staffer-3, Council Member King often communicated to Staffer-2 through other King Staff, rather than communicating with Staffer-2 directly.[198]

iv. Council Member King's Attempts to Circumvent the Monitor's Oversight and Abusive Uncooperative Treatment of the Monitor

(a) Decisions Regarding Hiring and Salaries of Staff in Violation of the Resolution

[194] Tr. at 75:25-77:23.

[195] Tr. at 558:7-14.

[196] Tr. at 558:14-16.

[197] Tr. at 78:3-79:24.

[198] Tr. at 558:17-559:6.

76. The Committee finds that Council Member King attempted to make multiple decisions related to employment status involving at least eight King Staff or prospective King Staff without notifying, appropriately consulting, and/or obtaining approval from the Monitor, in violation of Paragraphs 3, 4(a), and 10 of the Resolution, as fully set forth below.

77. The Committee finds that Council Member King attempted to increase Staffer-4's hours and salary, and increase Staffer-5's salary, without notifying, consulting, or obtaining approval from the Monitor by engaging in the following conduct:

a. Ms. Pate testified that in or about January 2020, Ms. Pate was notified by Administrative Services that Council Member King had submitted paperwork to increase Staffer-4's salary, increase Staffer-4's hours from part-time to full-time, and increase Staffer-5's salary.[199] Ms. Pate's testimony was corroborated by Staffer-3, who similarly testified that Council Member King and Staffer-7 went to the Council's offices at 250 Broadway, and when they returned to Council Member King's district office, Staffer-7 provided Staffer-3 with paperwork requesting that Staffer-4 be moved from part-time to full-time.[200]

b. Upon receiving this information, Ms. Pate testified that she met with Council Member King, explained that Administrative Services had informed her that Council Member King had submitted such paperwork and that she had seen such paperwork. Ms. Pate then explained to Council Member King that the requests in such paperwork were employment-related decisions under the Resolution and therefore Council Member King needed to request Ms. Pate's approval before making them.[201] Ms. Pate asked Council Member King why he had not consulted her before submitting the paperwork to request an increase to Staffer-4's hours and salary and an increase to Staffer-5's salary and that she would not approve those changes until she had discussed them with Council Member King.[202] Ms. Pate testified that accordingly the salary increase was not approved for Staffer-5 but that the salary increase and hours increase were approved for Staffer-4 because Staffer-4 already had begun to work full-time for two weeks prior to the date Council Member King submitted the paperwork.[203]

78. The Committee finds that Council Member King attempted to hire and/or took steps toward hiring three additional King Staff without notifying, consulting, or obtaining approval from the Monitor by engaging in the following conduct:

a. Staffer-3 testified that Staffer-6, who works in Council Member King's Co-Op City office, called Staffer-3 and stated that Staffer-6 was sitting in the hallway outside of

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[199] Tr. at 524:14-24.

[200] Tr. at 160:12-161:5.

[201] Tr. at 525:6-11.

[202] Tr. at 525:11-14.

[203] Tr. at 525:19-526:3.

Council Member King's Co-Op City office because Council Member King was in that office meeting privately with Candidate-1.[204]

b. Ms. Pate testified that in or about mid to late January 2020, Staffer-2 and Staffer-3 informed Ms. Pate that Council Member King held a staff meeting after normal working hours and not during the regularly-scheduled Monday 8:00 a.m. time slot, at which Ms. Pate was not present.[205] Ms. Pate and Staffer-3 testified that Staffer-2 and Staffer-3 informed Ms. Pate that during this staff meeting Council Member King introduced Candidate-1 to the King Staff and informed the King Staff that Candidate-1 was a new staffer who he was going to hire.[206]

c. Staffer-3 testified that Candidate-1 reported to Council Member King's district office one day and met with Staffer-2 and Staffer-4.[207] Staffer-3 overheard Candidate-1 asking Staffer-2 about matters related to Council Member King's campaign and Staffer-3 directed Candidate-1 not to discuss Council Member King's campaign at Council Member King's district office.[208]

d. With regard to Candidate-2, Staffer-3 testified that Candidate-2 "said that Council Member King had hired [Candidate-2 who] would come to the office frequently looking for Councilman King." Staffer-3 went on to testify that one evening, Council Member King directed Staffer-7 to draft a letter on Council Member King's letterhead designating Candidate-2 as a representative of Council Member King at certain events.[209] Staffer-3 testified that Candidate-2 did in fact attend several events for Council Member King.[210]

e. Ms. Pate testified that when she approached Council Member King to discuss his attempts to hire Candidate-1 and Candidate-2, Council Member King denied that he had done so.[211]

f. Thereafter, Ms. Pate testified that on or about January 24, 2020,[212] Administrative Services notified Ms. Pate by email that Council Member King had spoken with it about potentially hiring three additional staff members and had been informed that he did not have sufficient funds remaining in his budget to do so.[213] Administrative Services informed the Monitor

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[204] Tr. at 156:10-18

[205] Tr. at526:4-14, 526:19-23, 609:7-10.

[206] Tr. at 156:3-6, 526:8-14.

[207] Tr. at 159:18-160:6.

[208] Tr. at 159:18-25.

[209] Tr. at 158:8-159:8.

[210] Tr. at 159:5-8.

[211] Tr. at 526:15-18.

[212] CX-55 (1/24/2020 Email to Ms. Pate). *See also* Tr. at 27:2-14.

[213] Tr. at 427:2-14; CX-55 (1/24/2020 Email to Ms. Pate).

that Council Member King had provided it with the salaries and start dates for the three staff members he wanted to hire. Ms. Pate's testimony was corroborated by an email from Administrative Services to Ms. Pate that was admitted into evidence as CX-55.

g. Ms. Pate testified that two of the three individuals the hiring of which Council Member King inquired with Administrative Services were Candidate-1 and Candidate-2[214]—whom Council Member King had denied attempting to hire when confronted by Ms. Pate earlier that same month. Ms. Pate and Ms. Francis testified that ultimately Council Member King did not submit any paperwork to hire Candidate-1 or Candidate-2, but Ms. Pate testified that Candidate-2 began working for Council Member King as a volunteer.[215] Staffer-3 testified that Candidate-2 attended a number of Council Member King events.[216] Ms. Pate and Ms. Francis testified that paperwork is required to be submitted to Administrative Services for any individual working for a Council Member even in an unpaid volunteer capacity and that no such paperwork was submitted for Candidate-1 or Candidate-2.[217]

h. With respect to the third individual the hiring of which Council Member King had inquired with Administrative Services, Ms. Pate testified that on or about a Monday in early February 2020, Council Member King asked Ms. Pate to meet with him on or about Wednesday of that week at his 250 Broadway office to discuss the hiring of a legislative director and meet the job candidate.[218] Ms. Pate testified that on the next day, on or about Tuesday, she sent Council Member King a text message to confirm their meeting the next day and Council Member King did not respond to that text.[219] Ms. Pate testified that on or about that Wednesday, she reported to her office at 250 Broadway, instead of to Council Member King's district office, and sent a text message to Council Member King to inform him that she was at 250 Broadway and available to meet with him and the job candidate. Council Member King also failed to respond to that text.[220] To the Monitor's knowledge, Council Member King never hired a new legislative director.

(a) Failure to Cooperate with the Monitor's Efforts to Ensure King Staff Were Appropriately Managed

79. The Committee finds that Council Member King requested Council cellphones for certain King Staff without notifying, consulting, or obtaining approval from the Monitor, and

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[214] Tr. at 530:2-15. The Committee was permitted to consider hearsay testimony but was instructed by the Chair of its limited evidentiary value.

[215] Tr. at 468:10-470:18, 530:25-531:6.

[216] Tr. at 159:5-8.

[217] Tr. at 531:7-14.

[218] Tr. at 531:15-532:4.

[219] Tr. at 532:5-7.

[220] Tr. at 532:7-12.

failed to cooperate with the Monitor's attempts to ensure King Staff were being managed appropriately in connection with that decision by engaging in the following conduct:

a. Ms. Pate testified that in or about late February 2020, Ms. Pate learned that Council Member King had submitted a request to Administrative Services to provide Council cellphones for two King Staff Members, without consulting Ms. Pate.[221] Ms. Pate expressed to Council Member King her concern that at least two other full-time King Staff Members, including Staffer-3 who is a supervisor, needed but did not have Council cellphones and had been using their personal cellphones to carry out their Council work.[222] Council Member King was not receptive to the idea of giving Council cellphones to additional King Staff and insisted that only the two King Staff for which he had submitted a request to Administrative Services needed Council cellphones.[223] During this conversation, Council Member King stated that Ms. Pate was trying to prevent him and King Staff from doing their jobs.[224]

80. Based upon the credible testimony given by Ms. Pate, Council Member King failed to cooperate with the Monitor's efforts to oversee Council Member King's management of King Staff by again accusing the Monitor of trying to prevent him from doing his job and resisting the Monitor's input regarding the provision of Council cellphones to King Staff. The Committee further finds that Council Member King's statement to Ms. Pate that she was trying to prevent him from doing his job is further evidence of Council Member King's unwillingness to cooperate with the Monitor as expressly required by the Resolution and is remarkably consistent with other uncooperative statements by Council Member King to Ms. Pate as fully set forth below.

(a) Additional Failure to Cooperate with and Abuse of the Monitor

81. The Committee finds that Council Member King failed to cooperate with the Monitor's oversight of employment decisions related to Staffer-6 and demonstrated his intent not to cooperate with the Monitor in the future by engaging in the following conduct, which the Committee also found to be abusive:

a. Ms. Pate testified that in or about late February 2020, Council Member King held a meeting in his office with Ms. Pate, Staffer-2, and Staffer-3, during which Council Member King described an interaction with Staffer-6 about which he was unhappy and expressed that he thus wished to terminate the employment of Staffer-6.[225] Ms. Pate testified that she encouraged Council Member King to speak with Staffer-6 about the interaction rather than immediately terminating Staffer-6's employment and offered to be present during that conversation in order to

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[221] Tr. at 540:23-541:2.

[222] Tr. at 540:23-541:14, 543:2-6.

[223] Tr. at 541:11-18.

[224] Tr. at 541:19-23.

[225] Tr. at 533:19-534:10.

help Council Member King communicate to Staffer-6 about why he felt Staffer-6's behavior had been inappropriate.[226] Council Member King did not like this idea, but Ms. Pate asked him to consider it for a few days and the meeting ended.[227] While at the end of the meeting Council Member King agreed to have a follow-up conversation with Ms. Pate about Staffer-6 in a few days, Council Member King failed to have such conversation with Ms. Pate.[228]

b. Ms. Pate testified that in or about early to mid March 2020, Ms. Pate had a second conversation with Council Member King regarding Staffer-6.[229] Ms. Pate and Staffer-3 testified that this meeting took place in Council Member King's office at the district office, and they both were present.[230] Ms. Pate and Staffer-3 testified fairly consistently corroborating each other about what transpired at this meeting as follows:

(i) At the start of the meeting, Council Member King expressed that he was unhappy about another interaction he had had with Staffer-6 and still wished to terminate Staffer-6's employment.[231] Ms. Pate testified that she then informed Council Member King that she had become aware that Staffer-6 recently had submitted a request to the Council for a reasonable accommodation, explained that it was not appropriate to terminate Staffer-6's employment while the request for a reasonable accommodation was pending, stated that she needed to gather some additional information about the situation, and suggested that she and Council Member King further discuss the issue after she had such additional information.[232]

(ii) Ms. Pate testified that Council Member King expressed that he was not happy with Ms. Pate's responses and began yelling;[233] Staffer-3 testified that Council Member King had "an outburst;"[234] and Ms. Pate and Staffer-3 both testified that Council Member King began to bang his fist on his desk while yelling at Ms. Pate.[235]

(iii) Ms. Pate and Staffer-3 testified that Council Member King accused Ms. Pate of not allowing him to do his job.[236] Ms. Pate testified that Council Member King further accused her of "harassing" him and that she was making King Staff feel uncomfortable about

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[226] Tr. at 534:11-16.

[227] Tr. at 534:17-20.

[228] Tr. at 534:17-22.

[229] Tr. at 534:23-535:2.

[230] Tr. at 150:17-25, 536:24-537:5.

[231] Tr. at 150:19-25, 535:3-10.

[232] Tr. at 535:11-18.

[233] Tr. at 536:7-9.

[234] Tr. at 150:24-25.

[235] Tr. at 536:7-9.

[236] Tr. at 151:11-13, 536:9-13.

bringing their medical issues directly to Council Member King.[237] Ms. Pate testified that she explained to Council Member King that Council policy allows staff members to speak with an equal employment opportunity specialist at the Council rather than speaking to their supervisor directly.[238] Ms. Pate testified that in response, Council Member King accused Ms. Pate of "trying to have him fucking executed."[239] Staffer-3's testimony corroborated that Council Member King cursed during the meeting although Staffer-3 did not recall the exact profanity that he used. Staffer-3 testified that after that meeting Council Member King had asked Staffer-3 if Council Member King had called Ms. Pate a "bitch."[240]

(iv) Staffer-2 testified that during this meeting, Staffer-2 was at Staffer-2's desk outside of Council Member King's office and could hear Council Member King loudly talking and nearly yelling.[241] Ms. Pate, Staffer-2, and Staffer-3 all consistently testified that Council Member King was yelling and banging his fist on his desk so loudly that Staffer-2 opened the door to Council Member King's office to ask if Ms. Pate and Staffer-3 were okay.[242]

(v) Staffer-3 testified that Staffer-3 felt scared and stunned by Council Member King's behavior and found it unprofessional.[243] Ms. Pate and Staffer-3 testified that shortly after Staffer-2 checked in on them, Council Member King began to cry and turned his face away from Ms. Pate and Staffer-3.[244]

(vi) Ms. Pate testified that she explained to Council Member King that she and Staffer-3 would leave his office so that he could collect himself, but that Council Member King needed to have a conversation with Ms. Pate about what had transpired during the meeting because Council Member King's behavior was not appropriate.[245] Ms. Pate and Staffer-3 testified that they then left Council Member King's office.[246] Ms. Pate testified that a few minutes later, Council Member King left the district office and did not return that day.[247]

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[237] Tr. at 536:9-13.

[238] Tr. at 536:13-16.

[239] Tr. at 536:16-17.

[240] Tr. at 151:20-23. At the Hearing, Counsel for Respondent argued that had Respondent called Ms. Pate a "bitch" in the office in front of Staffer-3 such conduct would not have been a violation of the Resolution. The Committee rejects that argument and notes that such conduct would be inconsistent with the sanctions imposed on Council Member King under the Resolution and the Council's Anti-Discrimination and Harassment Policy.

[241] Tr. at 69:10-12, 70:24-71:7.

[242] Tr. at 71:12-22, 151:2-9, 537:6-13.

[243] Tr. at 152:3-22.

[244] Tr. at 151:14-15, 537:15-18.

[245] Tr. at 537:18-22.

[246] Tr. at 151:16-19, 537:23.

[247] Tr. at 538:2-4.

c. Ms. Pate testified that on or about the next morning, Ms. Pate went into Council Member King's office and explained that she needed to speak with Council Member King about what had happened during their meeting the prior day.[248] Ms. Pate explained to Council Member King that the Monitor is responsible for ensuring that Council Member King does not have outbursts or treat King Staff inappropriately and that Council Member King's behavior toward her was highly inappropriate.[249] Ms. Pate testified that Council Member King denied that he had yelled at Ms. Pate, denied banging his fist on his desk, and denied cursing at her during the meeting the previous day.[250]

d. After denying his conduct of the prior day, Council Member King told Ms. Pate that it was difficult to have Ms. Pate in the role of Monitor because Ms. Pate reminded him of his daughters who were 31 and 32 years old.[251] Ms. Pate attempted to steer the conversation back to the inappropriateness of Council Member King's behavior the day before, but in response, Council Member King accused Ms. Pate of "lying to downtown" about what was happening in his office.[252] Ms. Pate understood Council Member King's use of the word "downtown" to mean the Office of the Speaker of the Council or possibly the Council as a whole.[253] Council Member King then asked Ms. Pate to discuss the disciplinary charges that had been brought against him. Ms. Pate declined to do so but offered to discuss the ways in which Council Member King needed to comply with the Resolution. Council Member King refused to do so and thus the meeting ended.[254]

e. Staffer-3 testified that the day after the meeting with Ms. Pate during which Council Member King yelled, pounded his fist on his desk, and cursed at the Monitor, Council Member King asked Staffer-3 for a ride and got into Staffer-3's car.[255] In Staffer-3's car, Council Member King asked Staffer-3 whether he had called the Monitor a "bitch" during that meeting and Staffer-3 responded that Council Member King had cursed multiple times but Staffer-3 did not recall which curse words Council Member King had used.[256]

f. Based upon the credible testimony given by Ms. Pate, Staffer-2, and Staffer-3, the Committee finds that Council Member King failed to cooperate with the Monitor's efforts to oversee employment-related decisions regarding Staffer-6 by yelling and cursing at the Monitor including claiming that she was trying to have him "fucking executed", banging his fist on his desk, and accusing the Monitor of preventing him from doing his job as well as denying his conduct

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[248] Tr. at 538:8-12.

[249] Tr. at 538:12-17.

[250] Tr. at 538:17-24.

[251] Tr. at 538:21-25.

[252] Tr. at 539:2-7.

[253] Tr. at 539:12-14.

[254] Tr. at 539:17-25.

[255] Tr. at 153:8-16.

[256] Tr. at 153:17-155:2.

the next day, telling the Monitor she reminded him of his daughters, and accusing her of "lying to downtown." The Committee further finds that such conduct was abusive and threatening toward the Monitor and further evidence of Council Member King's overall failure to cooperate with the Monitor.

v. Council Member King's Further Avoidance of, and Refusal to Cooperate With, the Monitor

82. Ms. Pate testified that in addition to the meetings and meeting attempts described in Paragraphs 62, 67, 77, 78, 79, and 81 above, she attempted to meet with Council Member King on at least two other occasions, but Council Member King avoided meeting with Ms. Pate.[257] Specifically, Ms. Pate testified that on one occasion, Council Member King stopped by the office briefly and in passing Ms. Pate asked Council Member King to schedule a meeting with her. Council Member King responded in sum and substance, "okay, okay, okay" and "we will do it," but the meeting never took place.[258]

83. Ms. Pate and Staffer-3 testified that on the other occasion, Ms. Pate stopped Council Member King while he was coming in and out of his office, they scheduled two dates to meet in case one did not work out, and Council Member King's scheduler put both dates on Council Member King's calendar. [259] Ms. Pate testified that later that day Council Member King told the scheduler to cancel the meetings.[260] Staffer-3 testified that Council Member King stated to Staffer-3 and the scheduler, in sum and substance, "I'm not meeting with her" and walked away.[261] Ms. Pate testified that Council Member King did not notify her that he had canceled the meetings or ask to reschedule the meeting and the meeting never happened.[262]

84. Ms. Pate's testimony was corroborated by Staffer-2's and Staffer-3's testimony that Council Member King interacted with Ms. Pate very rarely.[263] Staffer-3 testified that when Ms. Pate asked to meet with Council Member King, Council Member King would reply, in sum and substance, "I got seven minutes in the office" and then would leave the office without meeting with Ms. Pate.[264]

85. Ms. Pate testified that on or about a weekday at approximately 10:00 a.m., Council Member King sent Ms. Pate a text message in which he informed her that a staff meeting was

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[257] Tr. at 543:11-544:7.

[258] Tr. at 543:11-25.

[259] Tr. at 149:4-14, 543:25-544:7.

[260] Tr. at 149:4-14, 543:25-544:7.

[261] Tr. at 149:10-15.

[262] Tr. at 543:25-544:7.

[263] Tr. at 67:4-9, 148:14-19.

[264] Tr. at 148:14-19.

taking place at that moment and asked her whereabouts.[265] Ms. Pate responded that she was at her office at 250 Broadway, that Council Member King was required to notify her of staff meetings in advance so that she could attend, and asked Council Member King why he had not so notified her in advance.[266] Council Member King did not respond.[267] Later that same day, Ms. Pate went to Council Member King's office and asked Council Member King why he had not notified her of the staff meeting that morning and Council Member King responded that he had assumed Staffer-3 would have told Ms. Pate about the meeting.[268]

vi. Council Member King's Continued Refusal to Engage with the Monitor During Remote Work and Continued Failure to Notify the Monitor of Staff Meetings

86. Ms. Pate testified that Council Member King primarily communicated with the King Staff via a group message on GroupMe, a group messaging app (the "King Staff GroupMe") to which Staffer-2 testified Council Member King did not permit the Monitor to be added.[269] As Ms. Pate was not part of the King Staff GroupMe, Staffer-2 and Staffer-3 created a separate text messaging group with Ms. Pate and regularly sent Ms. Pate screenshots of communications in the King Staff GroupMe in order to keep Ms. Pate informed and to try to help her fulfill her duties as Monitor.[270]

87. Ms. Pate and Staffer-3 testified that when Council staff began working remotely in or about mid March 2020, as a result of Council Member King's prior conduct toward her, Ms. Pate carried out her role as Monitor by corresponding by phone, text, or email on a daily basis with Staffer-2 and Staffer-3.[271] Ms. Pate testified that in the remote environment, Council Member King has failed to include her in staff meetings and has not responded to her outreach such that she has needed to rely on Staffer-2 and Staffer-3 to keep her apprised about the functioning of Council Member King's office and Council Member King's treatment of King Staff.[272]

88. Ms. Pate testified that early in the remote work time period, Staffer-3 notified Ms. Pate that Council Member King had been holding King Staff meetings by phone and sent Ms. Pate screenshots from a group text message and the King Staff GroupMe chat in which Staffer-7 circulated information about a staff meeting being held by teleconference at Council Member

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[265] Tr. at 544:18-24.

[266] Tr. at 544:24-545:4.

[267] Tr. at 545:5-7.

[268] Tr. at 545:12-16.

[269] Tr. at 81:5-23, 521:23-523:2.

[270] Tr. at 521:18-523:2.

[271] Tr. at 162:11-163:3, 546:23-547:5, 555:16-22.

[272] Tr. at 546:23-547:5, 555:16-22.

King's request.[273] That testimony was corroborated by screenshots of the group text message and the King Staff GroupMe chat, admitted into evidence as CX-27 and CX-28, respectively. Upon receiving this information from Staffer-3, Ms. Pate sent a text message to Council Member King in which Ms. Pate reminded Council Member King of his obligation under the Resolution that Ms. Pate be notified of all staff meetings so that she could attend.[274] Council Member King did not respond to this text.[275] Ms. Pate's testimony is corroborated by her text messages to Council Member King, admitted into evidence as CX-25.

89. Ms. Pate testified that on or about March 23, 2020, Ms. Pate sent another text message to Council Member King asking about staff meetings being held without her because she had been informed by King Staff Members that Council Member King continued to hold staff meetings via teleconference without notifying Ms. Pate, and that some King Staff had been working in person at Council Member King's office during the remote work period.[276] Council Member King again did not respond to this text.[277] Ms. Pate's testimony was corroborated by her text message to Council Member King, admitted into evidence as CX-26.

90. Ms. Pate testified that after sending the two text messages referred to above (CX-25 and CX-26) and receiving no response from Council Member King, Ms. Pate did not make further attempts to text or call Council Member King, and instead relied heavily upon Staffer-2 and Staffer-3 to keep her apprised of what was happening with respect to Council Member King's office and Council Member King's treatment of King Staff in the remote work environment.[278] Ms. Pate explained that Council Member King had expressed that text message was his preferred mode of communication and that because Council Member King had not responded to her last two text messages as well as his overall refusal to engage with her and his prior treatment of her, she had no reason to believe it would be worthwhile to call or send additional text messages to Council Member King.[279] Based on the testimony and exhibits, the Committee agrees with that assessment.

vii. Council Member King's Failure to Pay the $15,000 Fine and Failure to Arrange for Training as Required by the Resolution

91. The Respondent and the Council stipulated that Council Member King did not pay the $15,000 fine imposed by the Resolution and that Council Member King did not pay for any training as required by the Resolution.[280]

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[273] Tr. at 547:2-11, 548:5-14, 550:5-551:18; CX-27 (Screenshot of group text message); CX-28 (Screenshot of King Staff GroupMe Chat).

[274] Tr. at 548:14-549:13; CX-25 (Text Message from Ms. Pate to Council Member King).

[275] Tr. at 549:19-24.

[276] Tr. at 554:25-555:12.

[277] Tr. at 555:13-15; CX-26 (Text Message from Ms. Pate to Council Member King).

[278] Tr. at 555:16-556:16.

[279] Tr. at 556:6-22.

[280] Tr. at 496:8-17.

92. The Committee was not persuaded by Respondent's arguments that he failed to pay the fine (and relatedly failed to pay for and attend the required training) because he and his counsel were engaged in good faith negotiations with the Council at the time the Charges were brought against him. The correspondence by the OGC and Special Counsel with Respondent (CX-33 through CX-38, CX-57 through CX-59, Respondent Exhibit-C (introduced by the Special Counsel as Respondent did not introduce any of the three exhibits he had pre-marked) and CX-56 for identification) demonstrates that the OGC repeatedly attempted to engage with Respondent's counsel regarding the fine and training required under the Resolution, offered Respondent two reasonable fine payment plans, and offered Respondent training at a reduced cost but that Respondent's counsel failed to respond in any meaningful way as detailed below:

a. Specifically, the OGC first offered Respondent a proposed fine payment plan of $500 per pay period, which is every other week, on or about December 17, 2019 (CX-33a-c). OGC followed up with Respondent at least four times for more than a month from on or about December 30, 2019 to on or about January 31, 2020 (CX-34a-b through 37a-b) but received no substantive response.

b. On or about January 31, 2020, the OGC offered Respondent a reduced payment plan of $400 per pay period and gave Respondent a deadline of February 7 to have a payment plan in place (CX-38).

c. Despite all of these efforts by the OGC, Respondent did not engage in any substantive discussion of the fine and payment plan until on or about February 4, 2020, more than a month and a half later (CX-38a-b) and a few days before OGC's deadline of February 7, 2020. Even then Respondent did not specifically respond to the OGC's prior offers but stated through his counsel that he was interested in a payment plan for the fine.

d. On or about February 6, 2020, OGC informed Respondent that it still needed a response to the payment plan by February 7, 2020 and, in a further effort to be accommodating, told Respondent that the OGC had negotiated a reduction in the cost of training and that he could pay half the reduced cost of the training by February 11, 2020 and the other half upon completion of the training. (CX-38a-b.) Respondent again did not respond to the OGC's offer until on or about February 13, 2020 (RX-C introduced by the Special Counsel)—an hour after Respondent received notice from the Special Counsel that the Committee intended to soon issue the Charges against Council Member King (CX-57)—and made a counter-offer of a $300 per month payment plan for the fine. The Committee finds that such offer did not constitute a meaningful attempt to pay the $15,000 fine based on the timing of the offer and as such, a payment plan would not even have resulted in half of the fine being paid by the end of Council Member King's term in office.

93. The Committee finds that based on the record of correspondence between the OGC and the Special Counsel, on the one hand, and Council Member King's counsel, on the other hand, Council Member King engaged in a pattern of dilatory and avoidant behavior and failed to negotiate with the Council in good faith with respect to payment of the fine pursuant to the Resolution.

94. The Committee further finds that based on the record of correspondence between the OGC and Council Member King's counsel, Council Member King made no attempt to try to arrange to pay for or attend the training in violation of the Resolution.

viii. Conclusions on Charge Four

95. Based upon the testimony and evidence presented at the Hearing, the Committee finds that Council Member King violated Paragraphs 3, 4(a), and 10 of the Resolution by repeatedly making or attempting to make employment-related decisions with respect to King Staff without notifying, consulting with, and/or obtaining approval from the Monitor. The Committee notes that although Council Member King did not in all instances succeed in making employment decisions without the approval of the Monitor, Council Member King nonetheless attempted to make, or took steps toward making, employment-related decisions without the Monitor's knowledge and/or approval. The Committee rejects Respondent's contention on cross-examination of Ms. Pate that the Monitor did not have authority to make determinations regarding Council cellphones.[281] As Ms. Pate testified, Paragraph 3 of the Resolution empowers the Monitor to ensure that King Staff are "appropriately managed," in accordance with Council Rules and policies,[282] and Paragraph 10 of the Resolution requires Council Member King to engage in "full cooperation" with the Monitor.[283]

96. Based upon the testimony and evidence presented at the Hearing, the Committee finds that Council Member King violated Paragraphs 4(c) and 10 of the Resolution by holding staff meetings outside of the Monitor's presence and failing to provide the Monitor with adequate notice of staff meetings. Ms. Pate's testimony was corroborated by Staffer-2 and Staffer-3, who both testified that Council Member King held *ad hoc* staff meetings when the Monitor was not present in the office[284] and at the end of the day after the Monitor had left the office, which the Committee finds was intentional to avoid participation therein by the Monitor.[285]

97. The Committee rejects Respondent's arguments including during cross-examination of Ms. Pate that Paragraph 4(b) of the Resolution does not require Council Member King to include the Monitor on group chats or group text messages between Council Member King and King Staff because the Resolution refers only to emails.[286] Rather, the Committee finds that Council Member King violated Paragraph 4(c) of the Resolution by failing to adequately communicate with the Monitor about staff meetings via any mode of communication—group chat, text message, phone call, in-person conversation, or otherwise. As Ms. Pate testified, by holding staff meetings outside Ms. Pate's presence and failing to adequately notify Ms. Pate of staff

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[281] Tr. at 579:7-580:12.

[282] Tr. at 605:17-22, 607:21-608:2; CX-32 (the Resolution).

[283] Tr. at 605:23-606:14; CX-32 (the Resolution).

[284] Tr. at 155:15-156:2.

[285] Tr. at 67:15-68:5.

[286] Tr. at 570:16-571:6.

meetings, Council Member King undermined Ms. Pate's authority and ability to attend all King Staff meetings.[287] The Committee further finds that Council Member King's refusal to add Ms. Pate to the King Staff GroupMe was additional evidence of his intentional exclusion of Ms. Pate from King Staff meetings and interfered with her ability to manage King Staff as required by the Resolution. The Committee notes that even the threat of further sanction did not deter Council Member King's efforts to undermine and circumvent the Monitor's oversight—Ms. Pate testified that even after notification of the Charges against him, while Council Member King's office was operating remotely, Council Member King continued to hold remote staff meetings, exclude the Monitor from those meetings, and refused to respond to her attempts to contact him about her exclusion from staff meetings.

98. The Committee further finds that although Ms. Pate testified on cross-examination that the Resolution does not explicitly require Council Member King to inform the Monitor of staff meetings,[288] the Committee finds that Council Member King was nonetheless obligated to do so, and rejects Respondent's suggestion that Ms. Pate could or should have somehow found out about staff meetings by speaking with King Staff. [289] Paragraph 10 of the Resolution requires Council Member King—not the King Staff or anyone else—to engage in "full cooperation" with the Monitor.[290] Ms. Pate credibly testified that she repeatedly asked Council Member King to notify her in advance of all staff meetings, and that Council Member King repeatedly failed to cooperate[291] and to respond to her requests to attend the meetings in violation of the Resolution.

99. Based upon the testimony and evidence presented at the Hearing, the Committee finds that Council Member King violated Paragraphs 4(d) and 10 of the Resolution by restricting King Staff access to his office, the only private meeting space in the District Office, and attempting to intimidate and discourage King Staff from cooperating with the Monitor and/or the investigation of the 2020 Matter, including by asking King Staff whether they were on the King team or the Corey team and stating upon his return from suspension that he was going to "take back" his office.

100. Based upon the testimony and evidence presented at the Hearing, the Committee finds that Council Member King further violated Paragraphs 3 and 10 of the Resolution by avoiding or cancelling meetings with the Monitor; failing to respond to the Monitor's text messages and inquiries related to the Monitor's duties and the Resolution; and engaging in extremely uncooperative, abusive, and threatening behavior toward the Monitor, including by yelling, pounding his fist on the desk, and cursing at the Monitor as well as telling the Monitor that she was not allowing him to do his job and was trying to get him in trouble.

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[287] Tr. at 592:20-593:4.

[288] Tr. at 575:8-13.

[289] Tr. at 575:14-576:7.

[290] CX-32 (the Resolution).

[291] Tr. at 606:6-12.

101. The Committee was not persuaded by Respondent's suggestion during cross-examination of Ms. Pate that the Resolution does not explicitly require Council Member King to respond to Ms. Pate's text messages, and notes that the Resolution specifically requires Council Member King to cooperate with the Monitor.[292] Nor was the Committee persuaded by the fact that, as Ms. Pate testified on cross-examination, Council Member King did not explicitly prohibit King Staff from meeting with the Monitor.[293]

102. Finally, the Committee does not credit Respondent's attempts to excuse Council Member King's inappropriate, abusive, and threatening behavior toward the Monitor by arguing that the Resolution does not require Council Member King to buy the Monitor "crumpets and coffee every morning," [294] "bring her roses,"[295] or "be cordial and kind" to the Monitor.[296] While the Resolution does not require Council Member King to be kind or friendly to the Monitor, and certainly does not require Council Member King to give the Monitor gifts or do personal favors for the Monitor, it does at a minimum require Council Member King to fully cooperate with the Monitor so that the Monitor can carry out her duties. While, as Respondent argues, the Resolution does not explicitly state that Council Member King cannot yell at the Monitor, lose his temper, pound the table, curse, or make accusations toward the Monitor,[297] this behavior by Council Member King toward the Monitor undermined the Monitor's ability to oversee the management of Council Member King's office and King Staff, and falls significantly outside any reasonable interpretation of the phrase "full cooperation." Rather than cooperate with the Monitor, Council Member King was openly hostile and resistant to the Monitor's oversight. The Committee therefore finds that Council Member King's inappropriate and uncooperative behavior toward the Monitor, including, among other things, yelling and cursing at the Monitor, ignoring the Monitor's inquiries, and telling the Monitor she was not allowing him to do his job constituted a violation of the Resolution.

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[292] Tr. at 573:17-574:9.

[293] Tr. at 577:10-20.

[294] Tr. at 42:2-7.

[295] Tr. at 66:16-22.

[296] Tr. at 42:2-7. The Committee further notes that the choice of these examples could be viewed as evidence of gender bias similar to Respondent's comments to the Monitor when she confronted him about his abusive conduct that she reminded him of his daughters.

[297] Tr. at 577:21-579:6.

VII. CONCLUSIONS

VIOLATIONS OF COUNCIL POLICY, COUNCIL RULES, AND CHAPTER 68 OF THE CITY CHARTER

CHARGE ONE
HARASSMENT AND DISCRIMINATION

103. From in or about September 2017 through in or about January 2018, as a result of the evidence presented at the Hearing as set forth above, Council Member King engaged in harassment and discrimination against a Council Staff Member by using unwelcome, vulgar, and/or hostile language in reference to that Staff Member's gender, disability, and/or medical condition, and negatively impacting that Staff Member's employment by treating her adversely in the terms and conditions of her employment and ultimately forcing that Staff Member to take an unnecessary unpaid leave on the basis of her gender, disability, and/or medical condition, in violation of the Council Policy as referenced in this Charge One below.

(In violation of the Council's Anti-Discrimination and Harassment Policy.)

CHARGE TWO
CONFLICTS OF INTEREST

104. From in or about July 2019 through in or about August 2019, as a result of the evidence presented at the Hearing as set forth above, Council Member King engaged in conflicts of interest by using his position as a public servant to engage in, and direct a Council Staff Member to help facilitate, the misappropriation of Council funds for his own personal financial gain, in violation of the Chapter 68 of the City Charter and the Council Rule as referenced in this Charge Two below.

(In violation of Chapter 68 of the New York City Charter
and Council Rule 10.70.)

CHARGE THREE
DISORDERLY CONDCUT

105. From in or about July 2019 through in or about August 2019, as a result of the evidence presented at the Hearing as set forth above, Council Member King engaged in disorderly conduct by willfully committing conversion of public Council funds for his own use, and through gross culpable conduct knowingly directing a Staff Member to facilitate Council Member King's conversion of public Council funds, in violation of the Council Rule as referenced in this Charge Three below.

(In violation of Council Rule 10.80.)

CHARGE FOUR
VIOLATIONS OF THE RESOLUTION AND DISORDERLY CONDUCT

106. From in or about mid December 2019 and continuing through the date of the Hearing, as a result of the evidence presented at the Hearing as set forth above, Council Member King violated Council Resolution No. 1138-2019 and engaged in disorderly conduct by willfully violating the binding sanctions, terms, and conditions of Council Resolution No. 1138-2019, in violation of the Council Resolution No. 1138-2019 and the Council Rule as referenced in this Charge Four below.

(In violation of Council Resolution No. 1138-2019 and Council Rule 10.80.)

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VIII. STATEMENT OF THE COMMITTEE'S REASONS FOR THE PROPOSED SANCTION

Pursuant to Council Rule 10.80, in addition to the foregoing Findings of Fact and Conclusions, the Committee considered the following factors in determining the appropriate recommended sanction(s) to be imposed on Council Member King for his violations of Council Policy, Council Rules, and Chapter 68 of the City Charter as set forth in the Charges:

(1) Complete Disregard and Disdain for Council Rules and Policy and the Resolution: Council Member King, through his harassment and discrimination toward King Staff, engagement in and fostering of conflicts of interest and disorderly conduct, and his flouting of the requirements and sanctions of the Resolution, has demonstrated complete disregard and disdain for the orderly and proper functioning of the Council and the Council's Rules and Policy.

(2) Intimidation of Staff and Creation of a Culture of Fear: In 2019, Council Member King was found to have created an impermissible work environment by retaliating against King Staff, fostering disorderly conduct within his office, engaging in conflicts of interest, and actively discouraging King Staff from participating in or cooperating with Council investigations. Following the passage of the Resolution as a result of the 2019 Matter, Council Member King has continued to create an unacceptable work environment for King Staff by intimidating King Staff and actively discouraging King Staff from cooperating with Council investigations and with the Monitor as well as attempting to intimidate the Monitor and criticizing the Monitor for purportedly reporting his conduct to the OGC and/or the Council.

(3) Repeated Violations of the Council's Anti-Discrimination and Harassment Policy: Council Member King has been found to have violated the Policy's prohibitions on harassment and discrimination on three separate occasions toward three different King Staff Members. Council Member King also has been found to have violated the Policy by retaliating against certain King Staff Members. In 2018, Council Member King was found to have violated the Policy by engaging in unwelcome conduct toward a King Staff Member for which he attended training at the Council's expense. In the 2019 Matter, the Committee found that Council Member King had previously engaged in harassment based on sexual orientation and/or gender identity and Council Member King failed to attend the mandated training imposed upon him. In the 2019 Matter, this Committee also found that Council Member King engaged in retaliation against multiple King Staff Members who he knew or suspected had cooperated or might cooperate with Council investigators and/or the Special Counsel. Now in this 2020 Matter, the Committee found that Council Member King had engaged on a separate occasion in harassment and discrimination based on gender, disability, and/or medical condition toward yet another King Staff Member. In addition, after Council Member King's return to the office from the 30-day suspension mandated by the Resolution, Council Member King treated King Staff Members adversely who he believed were cooperating with the Monitor and/or the investigation of the 2020 Matter including with the Special Counsel. The Committee further recognizes that the harassing and discriminatory comments that formed the basis for the substantiation of Charge Four in the 2019 Matter and Charge One in the 2020 Matter were particularly vulgar and hostile and standing alone were violations of the Policy. Taken together, all of these past violations and the findings in this 2020 Matter demonstrate that Council Member King has engaged in repeated acts of harassment and

discrimination as well as a pattern of retaliation toward King Staff and shown an unwillingness to change his behavior despite having received and been ordered to attend appropriate training.

(4) The Resolution and the Sanction of a Monitor Failed to Prevent Further Misconduct: In 2019, the Council voted to impose the sanctions as set forth in the Resolution, including a 30-day suspension, the Monitor, a $15,000 fine, and mandated training, in an attempt to prevent Council Member King from continuing to engage in violations of Council Rules and policies and Chapter 68 of the City Charter. In addition to Council Member King's failure to pay the fine and pay for and attend the required training, the Committee finds that Council Member King has continued to engage in the very type of impermissible behavior that the Resolution was intended to prevent, including engaging in disorderly conduct and continued intimidation of King Staff because of actual or perceived cooperation with Council investigations and/or the Monitor.

Based on the above and the foregoing Findings of Fact and Conclusions, the recommended sanction set forth below is appropriate and necessary to punish Council Member King for his egregious and pervasive misconduct, stop future violations by Council Member King of the Policy, Council Rules, and Chapter 68 of the City Charter, to ensure fair and adequate enforcement of the Policy, Council Rules, and Chapter 68 of the City Charter, to promote general deterrence, and to assure Council staff that the Council will appropriately redress violations of the Policy, Council Rules, and Chapter 68 of the City Charter.

The Committee recognizes that the recommended sanction set forth below—namely, removal from office—is of unprecedented severity. The Committee recommends such sanction as a last resort, having exhausted all viable alternatives, including imposition of suspension, a monitor, mandated training, and a fine. Even after the appointment of a full-time Monitor in Council Member King's office, Council Member King has demonstrated blatant disregard for the rules and policies of the Council and has continued to engage in impermissible intimidation and mistreatment of King Staff. The Committee therefore concludes that the sanction of removal from office is the only viable means by which to prevent further serious misconduct by Council Member King.

IX. RECOMMENDED SANCTION

Based upon the Committee's Findings of Fact and Conclusions, the Committee recommends the following Sanction, which is adopted and set forth in the Committee's proposed Resolution (attached hereto as Appendix A and incorporated herein as if fully set forth herein):

Council Member Andy King shall be expelled from office immediately upon passage and adoption of this Resolution.

Dated this 29th day of September, 2020.

APPENDIX A: RESOLUTION

By Council Member Matteo and the Committee on Standards and Ethics

NEW YORK CITY COUNCIL

COMMITTEE ON STANDARDS AND ETHICS

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IN RE THE DISCIPLINARY MATTER (2) OF

PRECONSIDERED
RESOLUTION NO. 1439

COUNCIL MEMBER ANDY KING

----------X

A Resolution imposing the sanction of expulsion, as recommended by the Committee on Standards and Ethics, in the above-captioned disciplinary matter of Council Member Andy King.

RESOLVED, upon due and full consideration of the Report from the Council's Committee on Standards and Ethics (the "Committee") in the above referenced matter, adopted by the Committee on September 29, 2020 (the "Report") together with its recommended sanction relating to the Charges in the above referenced matter, the Council hereby adopts the recommended sanction as follows:

RECOMMENDED SANCTION

Based upon the Committee's Report and the Findings of Fact and Conclusions therein, the Committee recommends and the Council adopts the following sanction:

1. Council Member Andy King shall be expelled from office immediately upon passage and adoption of this resolution.